



Senate

General Assembly

File No. 387

January Session, 2007

Substitute Senate Bill No. 1054

Senate, April 10, 2007

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND ECONOMIC DEVELOPMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subparagraph (A) of subdivision (3) of subsection (c) of
2 section 7-148 of the general statutes is repealed and the following is
3 substituted in lieu thereof (*Effective from passage and applicable to*
4 *property acquired on or after said date*):

5 (3) (A) Take or acquire by gift, purchase, grant, including any grant
6 from the United States or the state, bequest or devise and hold,
7 condemn, lease, sell, manage, transfer, release and convey such real
8 and personal property or interest therein absolutely or in trust as the
9 purposes of the municipality or any public use or purpose, including
10 that of education, art, ornament, health, charity or amusement,
11 cemeteries, parks or gardens, or the erection or maintenance of statues,
12 monuments, buildings or other structures [or the encouragement of

13 private commercial development,] require. Any lease of real or
14 personal property or any interest therein, either as lessee or lessor, may
15 be for such term or any extensions thereof and upon such other terms
16 and conditions as have been approved by the municipality, including
17 without limitation the power to bind itself to appropriate funds as
18 necessary to meet rent and other obligations as provided in any such
19 lease.

20 Sec. 2. Section 8-125 of the general statutes is repealed and the
21 following is substituted in lieu thereof (*Effective from passage and*
22 *applicable to property acquired on or after said date*):

23 As used in this chapter:

24 [(a)] (1) "Redevelopment" means improvement by the rehabilitation
25 or demolition of structures, by the construction of new structures,
26 improvements or facilities, by the location or relocation of streets,
27 parks and utilities, by replanning or by two or more of these methods;

28 [(b)] (2) "Redevelopment area" means an area within the state which
29 is deteriorated, deteriorating, substandard or detrimental to the safety,
30 health, morals or welfare of the community. An area may consist
31 partly or wholly of vacant or unimproved land or of land with
32 structures and improvements thereon, and may include structures not
33 in themselves substandard or insanitary which are found to be
34 essential to complete an adequate unit of development, if the
35 redevelopment area is deteriorated, deteriorating, substandard or
36 detrimental. An area may include properties not contiguous to each
37 other. An area may include all or part of the territorial limits of any fire
38 district, sewer district, fire and sewer district, lighting district, village,
39 beach or improvement association or any other district or association,
40 wholly within a town and having the power to make appropriations or
41 to levy taxes, whether or not such entity is chartered by the General
42 Assembly. As used in this subdivision, "deteriorating" or
43 "deteriorated" means any structure or vacant or unimproved lot or
44 parcel (A) that has significant unremedied building, housing or health
45 code violations; (B) that has a high vacancy rate or is abandoned,

46 vacant or unoccupied; (C) for which taxes are delinquent; or (D) that
47 has been deemed a public nuisance under any provision of the general
48 statutes or local ordinance;

49 [(c)] (3) A "redevelopment plan" [shall include: (1)] means a plan
50 that includes: (A) (i) A description of the redevelopment area and the
51 condition, type and use of the structures therein, (ii) identification of
52 each parcel that is deteriorating or deteriorated and the reasons for
53 such identification, and (iii) specification of each parcel proposed to be
54 taken by eminent domain; [(2)] (B) the location and extent of the land
55 uses proposed for and within the area, such as housing, recreation,
56 business, industry, schools, civic activities, open spaces or other
57 categories of public and private uses; [(3)] (C) the location and extent
58 of streets and other public utilities, facilities and works within the area;
59 [(4)] (D) schedules showing the number of families displaced by the
60 proposed improvement, the method of temporary relocation of such
61 families and the availability of sufficient suitable living
62 accommodations at prices and rentals within the financial reach of
63 such families and located within a reasonable distance of the area from
64 which they are displaced; [(5)] (E) present and proposed zoning
65 regulations in the redevelopment area; [(6)] and (F) any other detail
66 including financial aspects of redevelopment which, in the judgment
67 of the redevelopment agency authorized herein, is necessary to give it
68 adequate information;

69 [(d)] (4) "Planning agency" means the existing city or town plan
70 commission or, if such agency does not exist or is not created, the
71 legislative body or agency designated by it;

72 [(e)] (5) "Redeveloper" means any individual, group of individuals
73 or corporation or any municipality or other public agency including
74 any housing authority established pursuant to chapter 128;

75 [(f)] (6) "Real property" means land, subterranean or subsurface
76 rights, structures, any and all easements, air rights and franchises and
77 every estate, right or interest therein.

78 Sec. 3. Section 8-127 of the general statutes is repealed and the
79 following is substituted in lieu thereof (*Effective from passage and*
80 *applicable to property acquired on or after said date*):

81 (a) The redevelopment agency may prepare, or cause to be
82 prepared, a redevelopment plan and any redeveloper may submit a
83 redevelopment plan to the redevelopment agency, and such agency
84 shall immediately transmit such plan to the planning agency of the
85 municipality for its study. The planning agency may make a
86 comprehensive or general plan of the entire municipality as a guide in
87 the more detailed and precise planning of redevelopment areas. Such
88 plan and any modifications and extensions thereof shall show the
89 location of proposed redevelopment areas and the general location and
90 extent of use of land for housing, business, industry, communications
91 and transportation, recreation, public buildings and such other public
92 and private uses as are deemed by the planning agency essential to the
93 purpose of redevelopment. Appropriations by the municipality of any
94 amount necessary are authorized to enable the planning agency to
95 make such comprehensive or general plan. The redevelopment agency
96 shall request the written opinion of the planning agency on all
97 redevelopment plans prior to approving such redevelopment plans.
98 Such written opinion shall include a determination on the consistency
99 of the plans with the plan of conservation and development of the
100 municipality adopted under section 8-23. Before approving any
101 redevelopment plan, the redevelopment agency shall hold a public
102 hearing thereon, notice of which shall be published at least twice in a
103 newspaper of general circulation in the municipality, the first
104 publication of notice to be not less than two weeks before the date set
105 for the hearing. At least thirty-five days prior to any public hearing the
106 redevelopment agency shall post the draft plan on the Internet web
107 site of the redevelopment agency, if any. The redevelopment agency
108 may approve any such redevelopment plan if, following such hearing,
109 it finds that: [(a)] (1) The area in which the proposed redevelopment is
110 to be located is a redevelopment area; [(b)] (2) the carrying out of the
111 redevelopment plan will result in materially improving conditions in
112 such area; [(c)] (3) sufficient living accommodations are available

113 within a reasonable distance of such area or are provided for in the
114 redevelopment plan for families displaced by the proposed
115 improvement, at prices or rentals within the financial reach of such
116 families; [and (d)] (4) the redevelopment plan is satisfactory as to site
117 planning, relation to the [comprehensive or general plan] plan of
118 conservation and development of the municipality adopted under
119 section 8-23 and, except when the redevelopment agency has prepared
120 the redevelopment plan, the construction and financial ability of the
121 redeveloper to carry it out; (5) the planning agency has made a finding
122 that the redevelopment plan is consistent with the plan of conservation
123 and development of the municipality adopted under section 8-23; and
124 (6) (A) public benefits resulting from the redevelopment project will
125 outweigh any private benefits; (B) existing use of the real property
126 cannot be feasibly integrated into the overall development plan for the
127 project; (C) acquisition by eminent domain is reasonably necessary to
128 successfully achieve the objectives of such development plan; and (D)
129 the redevelopment project will have public benefits that do not include
130 consideration of the effects of the project on local tax revenues. No
131 redemption plan for a project which consists predominantly of
132 residential facilities shall be approved by the redevelopment agency in
133 any municipality having a housing authority organized under the
134 provisions of chapter 128 except with the approval of such housing
135 authority. The approval of a redevelopment plan may be given by the
136 legislative body, [or by such agency as it designates to act in its behalf.]
137 The redevelopment agency shall cause notice of the approval of the
138 plan to be published in a newspaper having general circulation in the
139 municipality. The plan shall be effective for a period of ten years after
140 the date of adoption. Thereafter, it shall be reviewed by the
141 redemption agency at least once every ten years and may be
142 adopted again or amended in accordance with this section.

143 (b) Any owner of property located in the redevelopment area may
144 appeal the findings of the agency under subdivision (6) of subsection
145 (a) of this section to the superior court for the judicial district in which
146 the municipality is located. The appeal shall be commenced by
147 service of process not more than fifteen days from the date that notice

148 of the approval of the plan was published as required by the this
149 section. The appeal shall be returned to the court in the same manner
150 and within the same period of time as prescribed for civil actions
151 brought to that court. Upon an appeal taken under this section, the
152 burden of proof shall be on the redevelopment agency to prove, by
153 clear and convincing evidence and based upon the evidence in the
154 record compiled before such agency, that the findings in the plan from
155 which such appeal is taken and the reasons cited for such findings are
156 supported by sufficient evidence in the record. If the redevelopment
157 agency does not satisfy the burden of proof under this section, the
158 court shall order the agency to wholly or partly revise, modify or
159 remand the findings from which the appeal was taken in a manner
160 consistent with the evidence in the record before it.

161 (c) Any property identified in the plan as property to be acquired by
162 eminent domain must be so acquired by a date that is five years after
163 the date of approval of the initial plan unless the redevelopment
164 agency approves an extension of the time for acquisition. An extension
165 shall be for a period of five years. No property may be acquired more
166 than ten years after adoption of the initial plan.

167 Sec. 4. Section 8-128 of the general statutes is repealed and the
168 following is substituted in lieu thereof (*Effective from passage and*
169 *applicable to property acquired on or after said date*):

170 (a) (1) Within a reasonable time after its approval of the
171 redevelopment plan as [hereinbefore] provided in section 8-127, as
172 amended by this act, the redevelopment agency may proceed with the
173 acquisition or rental of real property by purchase, lease, exchange or
174 gift. The redevelopment agency may acquire real property by eminent
175 domain, [with the approval of the legislative body of the municipality
176 and in accordance with the provisions of sections 8-129 to 8-133,
177 inclusive, and this section. The legislative body in its approval of a
178 project under section 8-127 shall specify the time within which real
179 property is to be acquired. The time for acquisition may be extended
180 by the legislative body in accordance with section 48-6, upon request

181 of the redevelopment agency, provided the owner of the real property
182 consents to such request.]

183 (2) No owner-occupied property may be acquired by eminent
184 domain unless the redevelopment agency makes a finding that the
185 redevelopment plan cannot be implemented without acquisition of
186 such property by eminent domain. The redevelopment agency shall
187 provide to the owner of the property proposed to be acquired a copy
188 of all information, including engineering studies and surveys,
189 architectural drawings and planning reports, considered by the agency
190 in making its finding.

191 (3) The redevelopment agency shall conduct a public hearing on the
192 proposed acquisition by eminent domain. The agency shall cause
193 notice of the time, place and subject of the hearing to be published in a
194 newspaper having a substantial circulation in the municipality not
195 more than ten days before the date set for the hearing. Not less than
196 ten days before the date of the hearing, the agency shall send, by first
197 class mail, notice of the time, place and subject of the hearing to the
198 owners of record of the real property and to all owners of real property
199 within one hundred feet of the real property to be acquired by eminent
200 domain.

201 (4) (A) No parcel of real property may be acquired by eminent
202 domain under this section except upon approval by vote of at least
203 two-thirds of the members of the legislative body of the
204 redevelopment agency. Such approval shall be by (i) separate vote on
205 each parcel of real property to be acquired, or (ii) a vote on one or
206 more groups of such parcels, provided each parcel to be acquired is
207 identified for the purposes of a vote on a group of such parcels under
208 this subparagraph.

209 (B) The redevelopment agency shall cause notice of any approved
210 acquisition under this subdivision to be published in a newspaper
211 having a substantial circulation in the municipality not more than ten
212 days after such approval.

213 (5) The owner-occupant of property acquired under this section may
214 appeal the decision of the redevelopment agency to the superior court
215 for the judicial district in which the municipality is located. The appeal
216 shall be commenced by service of process not more than fifteen days
217 from the date that notice of the approved acquisition was published
218 under subparagraph (B) of this subsection. The appeal shall be
219 returned to court in the same manner and within the same period of
220 time as prescribed for civil actions brought to that court. Upon an
221 appeal taken under this section, the burden of proof shall be on the
222 redevelopment agency to prove, by clear and convincing evidence
223 based on the record compiled before such agency, that the plan cannot
224 be implemented without acquisition of the property by eminent
225 domain and that acquisition of the property is consistent with the
226 provisions of subdivision (6) of section 8-127, as amended by this act. If
227 the redevelopment agency does not satisfy the burden of proof under
228 this section, the court shall order the agency to reverse its decision.

229 (b) (1) On and after the effective date of this section, on the date a
230 certificate of taking is filed pursuant to section 8-129, as amended by
231 this act, for property acquired by eminent domain pursuant to this
232 section, the redevelopment agency shall record with the certificate of
233 taking separate findings that itemize the value of the real property and
234 any structures or improvements on the real property so acquired.

235 (2) (A) If real property acquired on or after the effective date of this
236 section is not used for the purpose for which it was acquired or for
237 some other public use and is subsequently offered for sale, the real
238 property shall be first offered for sale pursuant to subparagraph (B) of
239 this subdivision to the person from whom the real property was
240 acquired, or heirs of the person designated pursuant to subparagraph
241 (B) of this subdivision, if any, for a price not greater than the value
242 documented in the recorded findings, less (i) the value of any
243 structures or improvements removed from the real property by the
244 development agency or its designee after the real property was
245 acquired as set forth in the recorded findings, (ii) the value of any
246 improvements the agency made to the property, and (iii) the amount

247 of any depreciation, as defined in section 45a-542z. After the
248 municipality provides notice pursuant to subparagraph (B) of this
249 subdivision, the municipality may not sell such property to a third
250 party unless the municipality has permitted the person or named heirs
251 six months during which to exercise the right to purchase the property,
252 and an additional six months to finalize the purchase if the person or
253 named heirs provide the municipality with notice of intent to purchase
254 the property within the initial six-month period.

255 (B) For the purposes of any offer of sale pursuant to this
256 subdivision, the municipality shall provide a form to any person
257 whose property is acquired pursuant to this section to permit such
258 person to provide an address for notice of sale to be sent, or to provide
259 the name and address of an agent to receive such notice. Such form
260 shall be designed to permit the person to designate heirs of the person
261 who shall be eligible to purchase such property pursuant to this
262 subdivision. The person or agent shall update information in the form
263 in writing. If the person or agent does not provide or update the
264 information in the form in a manner that permits the municipality to
265 send notice of sale pursuant to this subsection, no such notice shall be
266 required.

267 (c) Real property may be acquired previous to the adoption or
268 approval of the project area redevelopment plan, provided the
269 property acquired shall be located within an area designated on the
270 general plan as an appropriate redevelopment area or within an area
271 whose boundaries are defined by the planning commission as an
272 appropriate area for a redevelopment project, and provided such
273 acquisition shall be authorized by the legislative body. The
274 redevelopment agency may clear, repair, operate or insure such
275 property while it is in its possession or make site improvements
276 essential to preparation for its use in accordance with the
277 redevelopment plan.

278 Sec. 5. Section 8-129 of the general statutes is repealed and the
279 following is substituted in lieu thereof (*Effective from passage and*

280 *applicable to property acquired on or after said date):*

281 (a) (1) The redevelopment agency shall determine the compensation
282 to be paid to the persons entitled thereto for [such] real property [and]
283 to be acquired by eminent domain pursuant to section 8-128, as
284 amended by this act.

285 (2) The redevelopment agency shall pay the reasonable cost of two
286 independent appraisals conducted on the real property. One of the
287 appraisers shall be selected by the redevelopment agency and one shall
288 be selected by the property owner. Each appraiser shall provide a copy
289 of the appraisal to the redevelopment agency and the property owner.
290 The Ombudsman for Property Rights shall select the appraisal to be
291 used to determine the amount of compensation, which shall be the
292 appraisal which is closest to the fair market value of the property. The
293 amount of compensation shall be one hundred per cent of the fair
294 market value, reduced by reasonably foreseeable environmental clean-
295 up costs, and increased by reasonable attorney fees and costs, except
296 that the amount of compensation for residential property or owner-
297 occupied commercial property in substantial compliance with building
298 and housing codes shall be one hundred twenty-five per cent of the
299 fair market value. If acquisition of the property is more than five years
300 after the date of adoption of the initial plan, such amount shall be
301 increased by five per cent each year until ten years after the date of
302 adoption of the initial plan. If there is an active business on the
303 property, upon a finding by the Ombudsman for Property Rights that
304 the good will of the business cannot be transferred, the amount of
305 compensation shall be one hundred per cent of fair market value and
306 shall be adjusted to reflect lost good will. The ombudsman shall
307 determine and quantify the amount of such adjustment. The owner of
308 the business may appeal the amount of the adjustment to the superior
309 court for the judicial district in which such business is located. For
310 purposes of this subsection, "good will" means the benefits that accrue
311 to a business that are unique to its location. Each appraisal shall be
312 conducted by a state certified real estate appraiser without
313 consultation with the appraiser conducting the other independent

314 appraisal, and shall be conducted in accordance with generally
315 accepted standards of professional appraisal practice as described in
316 the Uniform Standards of Professional Appraisal Practice issued by the
317 Appraisal Standards Board of the Appraisal Foundation pursuant to
318 Title XI of FIRREA and any regulations adopted pursuant to section
319 20-504.

320 (3) The redevelopment agency shall file a statement of
321 compensation, containing a description of the property to be taken and
322 the names of all persons having a record interest therein and setting
323 forth the amount of such compensation, and a deposit as provided in
324 section 8-130, with the clerk of the superior court for the judicial
325 district in which the property affected is located.

326 (b) Upon filing such statement of compensation and deposit, the
327 redevelopment agency shall forthwith cause to be recorded, in the
328 office of the town clerk of each town in which the property is located, a
329 copy of such statement of compensation, such recording to have the
330 same effect and to be treated the same as the recording of a lis
331 pendens, and shall forthwith give notice, as provided in this section, to
332 each person appearing of record as an owner of property affected
333 thereby and to each person appearing of record as a holder of any
334 mortgage, lien, assessment or other encumbrance on such property or
335 interest therein [(a)] (1) in the case of any such person found to be
336 residing within this state, by causing a copy of such notice, with a copy
337 of such statement of compensation, to be served upon each such
338 person by a state marshal, constable or indifferent person, in the
339 manner set forth in section 52-57 for the service of civil process, and
340 [(b)] (2) in the case of any such person who is a nonresident of this
341 state at the time of the filing of such statement of compensation and
342 deposit or of any such person whose whereabouts or existence is
343 unknown, by mailing to each such person a copy of such notice and of
344 such statement of compensation, by registered or certified mail,
345 directed to [his] such person's last-known address, and by publishing
346 such notice and such statement of compensation at least twice in a
347 newspaper published in the judicial district and having daily or

348 weekly circulation in the town in which such property is located. Any
349 such published notice shall state that it is notice to the widow or
350 widower, heirs, representatives and creditors of the person holding
351 such record interest, if such person is dead. If, after a reasonably
352 diligent search, no last-known address can be found for any interested
353 party, an affidavit stating such fact, and reciting the steps taken to
354 locate such address, shall be filed with the clerk of the superior court
355 and accepted in lieu of mailing to the last-known address.

356 (c) Not less than [twelve] thirty-five days or more than ninety days
357 after such notice and such statement of compensation have been so
358 served or so mailed and first published, the redevelopment agency
359 shall file with the clerk of the superior court a return of notice setting
360 forth the notice given and, upon receipt of such return of notice, such
361 clerk shall, without any delay or continuance of any kind, issue a
362 certificate of taking setting forth the fact of such taking, a description
363 of all the property so taken and the names of the owners and of all
364 other persons having a record interest therein. The redevelopment
365 agency shall cause such certificate of taking to be recorded in the office
366 of the town clerk of each town in which such property is located. Upon
367 the recording of such certificate, title to such property in fee simple
368 shall vest in the municipality, and the right to just compensation shall
369 vest in the persons entitled thereto. At any time after such certificate of
370 taking has been so recorded, the redevelopment agency may repair,
371 operate or insure such property and enter upon such property, and
372 take any action that is proposed with regard to such property by the
373 project area redevelopment plan.

374 (d) The notice [referred to above] required in subsection (b) of this
375 section shall state that (1) not less than [twelve] thirty-five days or
376 more than ninety days after service or mailing and first publication
377 thereof, the redevelopment agency shall file, with the clerk of the
378 superior court for the judicial district in which such property is
379 located, a return setting forth the notice given, (2) upon receipt of such
380 return, such clerk shall issue a certificate for recording in the office of
381 the town clerk of each town in which such property is located, (3) upon

382 the recording of such certificate, title to such property shall vest in the
383 municipality, the right to just compensation shall vest in the persons
384 entitled thereto and the redevelopment agency may repair, operate or
385 insure such property and enter upon such property and take any
386 action that may be proposed with regard thereto by the project area
387 redevelopment plan, and (4) such notice shall bind the widow or
388 widower, heirs, representatives and creditors of each person named
389 [therein] in the notice who then or thereafter may be dead.

390 (e) When any redevelopment agency acting on behalf of any
391 municipality has acquired or rented real property by purchase, lease,
392 exchange or gift in accordance with the provisions of this section, or in
393 exercising its right of eminent domain has filed a statement of
394 compensation and deposit with the clerk of the superior court and has
395 caused a certificate of taking to be recorded in the office of the town
396 clerk of each town in which such property is located as provided in
397 this section, any judge of such court may, upon application and proof
398 of such acquisition or rental or such filing and deposit and such
399 recording, order such clerk to issue an execution commanding a state
400 marshal to put such municipality and the redevelopment agency, as its
401 agent, into peaceable possession of the property so acquired, rented or
402 condemned. The provisions of this [section] subsection shall not be
403 limited in any way by the provisions of chapter 832.

404 Sec. 6. Section 8-132 of the general statutes is repealed and the
405 following is substituted in lieu thereof (*Effective from passage and*
406 *applicable to property acquired on or after said date*):

407 (a) Any person claiming to be aggrieved by the statement of
408 compensation filed by the redevelopment agency may, at any time
409 within six months after the [same] statement of compensation has been
410 filed, apply to the superior court for the judicial district in which such
411 property is situated for a review of such statement of compensation so
412 far as [the same] it affects such applicant. The court, after causing
413 notice of the pendency of such application to be given to the
414 redevelopment agency, may, with the consent of the parties or their

415 attorneys, appoint a judge trial referee to make a review of the
416 statement of compensation, except that the court shall, upon the
417 motion of each party or their attorneys, refer the application to a judge
418 appointed by the Chief Court Administrator to hear tax appeals
419 pursuant to section 12-39l. For the purposes of such application,
420 review and appeal therefrom, and for the purposes of sections 52-192a
421 to 52-195, inclusive, as amended by this act, such applicant shall be
422 deemed a counterclaim plaintiff.

423 (b) If the court appoints a judge trial referee, the judge trial referee,
424 after giving at least ten days' notice to the parties interested of the time
425 and place of hearing, shall hear the applicant and the redevelopment
426 agency, shall view the property and take such testimony as the judge
427 trial referee deems material and shall thereupon revise such statement
428 of compensation in such manner as the judge trial referee deems
429 proper and forthwith report to the court. Such report shall contain a
430 detailed statement of findings by the judge trial referee, sufficient to
431 enable the court to determine the considerations upon which the judge
432 trial referee's conclusions are based. The report of the judge trial
433 referee shall take into account any evidence relevant to the fair market
434 value of the property, including evidence of environmental condition
435 and required environmental remediation. The judge trial referee shall
436 make a separate finding for remediation costs and the property owner
437 shall be entitled to a set-off of such costs in any pending or subsequent
438 action to recover remediation costs for the property. The court shall
439 review the report, and may reject it for any irregular or improper
440 conduct in the performance of the duties of the judge trial referee. If
441 the report is rejected, the court may appoint another judge trial referee
442 to make such review and report. If the report is accepted, its statement
443 of compensation shall be conclusive upon such owner and the
444 redevelopment agency.

445 (c) If the court does not appoint a judge trial referee, the court, after
446 giving at least ten days' notice to the parties interested of the time and
447 place of hearing, shall hear the applicant and the redevelopment
448 agency and take such testimony as [it] the court deems material, may

449 view the subject property, and shall make a finding regarding the
450 statement of compensation. The findings of the court shall take into
451 account any evidence relevant to the fair market value of the property,
452 including evidence of environmental condition and required
453 environmental remediation. The court shall make a separate finding
454 for remediation costs and the property owner shall be entitled to a set-
455 off of such costs in any pending or subsequent action to recover
456 remediation costs for the property. The findings of the court shall be
457 conclusive upon such owner and the redevelopment agency.

458 (d) If no appeal to the Appellate Court is filed within the time
459 allowed by law, or if an appeal is filed and the proceedings have
460 terminated in a final judgment finding the amount due the property
461 owner, the clerk shall send a certified copy of the statement of
462 compensation and of the judgment to the redevelopment agency,
463 which shall, upon receipt thereof, pay such property owner the
464 amount due as compensation. The pendency of any such application
465 for review shall not prevent or delay any action that is proposed with
466 regard to such property by the project area redevelopment plan.

467 Sec. 7. Section 8-189 of the general statutes is repealed and the
468 following is substituted in lieu thereof (*Effective from passage*):

469 (a) The development agency may initiate a development project by
470 preparing a project plan [therefor] in accordance with regulations [of]
471 adopted by the commissioner pursuant to section 8-198. The project
472 plan shall meet an identified public need and include: [(a)] (1) A legal
473 description of the land within the project area; [(b)] (2) a description of
474 the present condition and uses of such land or building; [(c)] (3) a
475 description of the process utilized by the agency to prepare the plan
476 and a description of alternative approaches considered to achieve
477 project objectives; (4) a description of the types and locations of land
478 uses or building uses proposed for the project area; [(d)] (5) a
479 description of the types and locations of present and proposed streets,
480 sidewalks and sanitary, utility and other facilities and the types and
481 locations of other proposed site improvements; [(e)] (6) statements of

482 the present and proposed zoning classification and subdivision status
483 of the project area and the areas adjacent to the project area; [(f)] (7) a
484 plan for relocating project-area occupants; [(g)] (8) a financing plan;
485 [(h)] (9) an administrative plan; [(i)] (10) a marketability and proposed
486 land-use study or building use study if required by the commissioner;
487 [(j)] (11) appraisal reports and title searches; [(k)] a statement of [(12)] a
488 description of the public benefits of the project including, but not
489 limited to, (A) the number of jobs which the development agency
490 anticipates would be created by the project; [and] (B) the estimated
491 property tax benefits; (C) the number and types of existing housing
492 units in the municipality in which the project would be located, and in
493 contiguous municipalities, which would be available to employees
494 filling such jobs; [and (l)] (D) a general description of infrastructure
495 improvements, including public access, facilities or use, that the
496 development agency anticipates may be needed to implement the
497 development plan; (E) a general description of the development
498 agency's goals for blight remediation or, if known, environmental
499 remediation; (F) a general description of any aesthetic improvements
500 that the development agency anticipates may be generated by the
501 project; (G) a general description of the project's intended role in
502 increasing or sustaining market value of land in the municipality; (H) a
503 general description of the project's intended role in assisting residents
504 of the municipality to improve their standard of living; and (I) a
505 general statement of the project's role in maintaining or enhancing the
506 competitiveness of the municipality; (13) findings that (A) the land and
507 buildings within the project area will be used principally for industrial
508 or business purposes; [that] (B) the plan is in accordance with the plan
509 of development for the municipality adopted by its planning
510 commission under section 8-23, and the plan of development of the
511 regional planning agency adopted under section 8-35a, if any, for the
512 region within which the municipality is located; [that] (C) the plan [is
513 not inimical to any] was prepared giving due consideration to the state
514 plan of conservation and development adopted under chapter 297 and
515 any other state-wide planning program objectives of the state or state
516 agencies as coordinated by the Secretary of the Office of Policy and

517 Management; [that] and (D) the project will contribute to the economic
518 welfare of the municipality and the state; and that to carry out and
519 administer the project, public action under this chapter is required;
520 and (14) a preliminary statement describing the proposed process for
521 acquiring each parcel of real property, including findings that (A)
522 public benefits resulting from the project will outweigh any private
523 benefits; (B) existing use of the real property cannot be feasibly
524 integrated into the overall development plan for the project; (C)
525 acquisition by eminent domain is reasonably necessary to successfully
526 achieve the objectives of such development plan; and (D) the project
527 will have public benefits that do not include consideration of the
528 project on local tax revenues. Any plan [which] that has been prepared
529 by a redevelopment agency under chapter 130 may be submitted by
530 the development agency to the legislative body and to the
531 commissioner in lieu of a plan initiated and prepared in accordance
532 with this section, provided all other requirements of this chapter for
533 obtaining the approval of the commissioner of the project plan are
534 satisfied.

535 (b) The development agency shall cause notice of the approval of
536 the plan to be published in a newspaper having general circulation in
537 the municipality. The plan shall be effective for a period of ten years
538 after the date of adoption. Thereafter, it shall be reviewed by the
539 redemption agency at least once every ten years and may be
540 adopted again or amended in accordance with this section.

541 (c) Any owner of property located in the project area may appeal the
542 findings of the agency under subdivision (14) of subsection (b) of this
543 section to the superior court for the judicial district in which the
544 municipality is located. The appeal shall be commenced by service of
545 process not more than fifteen days from the date that notice of the
546 approval of the plan was published as required by the general statutes.
547 The appeal shall be returned to the court in the same manner and
548 within the same period of time as prescribed for civil actions brought
549 to that court. Upon an appeal taken under this section, the burden of
550 proof shall be on the development agency to prove, by clear and

551 convincing evidence and based upon the evidence in the record
552 compiled before such agency, that the findings in the plan from which
553 such appeal is taken and the reasons cited for such findings are
554 supported by sufficient evidence in the record. If the development
555 agency does not satisfy the burden of proof under this section, the
556 court shall order the agency to wholly or partly revise, modify or
557 remand the findings from which the appeal was taken in a manner
558 consistent with the evidence in the record before it.

559 (d) Any property identified in the plan as property to be acquired
560 by eminent domain must be so acquired by a date that is five years
561 after the date of approval of the initial plan unless the legislative body
562 of the municipality approves an extension of the time for acquisition.
563 An extension shall be for a period of five years. No property may be
564 acquired more than ten years after adoption of the initial plan.

565 Sec. 8. Section 8-191 of the general statutes is repealed and the
566 following is substituted in lieu thereof (*Effective from passage*):

567 (a) Before the development agency adopts a plan for a development
568 project, (1) the planning commission of the municipality shall find that
569 the plan is in accord with the plan of development for the
570 municipality; and (2) the regional planning agency, if any, for the
571 region within which such municipality is located shall find that such
572 plan is in accord with the plan of development for such region, or if
573 such agency fails to make a finding concerning [said] the plan within
574 thirty-five days of receipt [thereof] of the plan by such agency, it shall
575 be presumed that such agency does not disapprove of [such] the plan;
576 and (3) the development agency shall hold at least one public hearing
577 [thereon] on the plan. At least thirty-five days prior to any public
578 hearing the development agency shall post the draft plan on the
579 Internet web site of the development agency, if any. Upon approval by
580 the development agency, the agency shall submit [such] the plan to the
581 legislative body which shall vote to approve or disapprove the plan.
582 After approval of the plan by the legislative body, the development
583 agency shall submit the plan for approval to the commissioner. Notice

584 of the time, place and subject of any public hearing held under this
585 section shall be published once in a newspaper of general circulation in
586 [such town] the municipality, such publication to be made not less
587 than one week nor more than three weeks prior to the date set for the
588 hearing. In the event the commissioner requires a substantial
589 modification of the project plan before giving approval, then upon the
590 completion of such modification such plan shall first have a public
591 hearing and then be approved by the development agency and the
592 legislative body. Any legislative body, agency or commission in
593 approving a plan for a development project shall specifically approve
594 the findings made [therein] in the plan.

595 (b) The provisions of subsection (a) of this section with respect to
596 submission of a development project to and approval by the
597 commissioner shall not apply to a project for which no grant has been
598 made under section 8-190 and no application for a grant is to be made
599 under section 8-195.

600 Sec. 9. Section 8-193 of the general statutes is repealed and the
601 following is substituted in lieu thereof (*Effective from passage and*
602 *applicable to property acquired on or after said date*):

603 (a) After approval of the development plan as provided in this
604 chapter, the development agency may proceed by purchase, lease,
605 exchange or gift with the acquisition or rental of real property within
606 the project area and real property and interests therein for rights-of-
607 way and other easements to and from the project area.

608 (b) The development agency may, with the approval of the
609 legislative body, and in the name of the municipality, acquire by
610 eminent domain real property located within the project area and real
611 property and interests therein for rights-of-way and other easements to
612 and from the project area, in the same manner that a redevelopment
613 agency may acquire real property under sections 8-128 to 8-133,
614 inclusive, as amended by this act, as if said sections specifically applied
615 to development agencies.

616 (1) No owner-occupied property may be acquired by eminent
617 domain unless the redevelopment agency submits information to the
618 legislative body sufficient for such legislative body to determine by
619 clear and convincing evidence that the redevelopment plan cannot be
620 implemented without acquisition of the property by eminent domain.
621 Such information shall include, but not be limited to, surveys,
622 engineering studies, architectural drawing and planning reports. The
623 redevelopment agency shall provide to the owner of the property a
624 copy of all information submitted to the redevelopment agency.

625 (2) Before the legislative body approves any acquisition by eminent
626 domain pursuant to this section, the legislative body shall conduct a
627 public hearing on the acquisition. The municipality shall cause notice
628 of the time, place and subject of the hearing to be published in a
629 newspaper having a substantial circulation in the municipality not
630 more than ten days before the date set for the hearing. Not less than
631 ten days before the date of the hearing, the legislative body shall send,
632 by first class mail, notice of the time, place and subject of the hearing to
633 the owners of record of the real property and to all owners of real
634 property within one hundred feet of the real property to be acquired
635 by eminent domain.

636 (3) (A) No parcel of real property may be acquired by eminent
637 domain under this section except upon approval by vote of at least
638 two-thirds of the members of the legislative body of the municipality.
639 Such approval shall be by (i) separate vote on each parcel of real
640 property to be acquired, or (ii) a vote on one or more groups of such
641 parcels, provided each parcel to be acquired is identified for the
642 purposes of a vote on a group of such parcels under this
643 subparagraph.

644 (B) The municipality shall cause notice of any approved acquisition
645 under this subdivision to be published in a newspaper having a
646 substantial circulation in the municipality not more than ten days after
647 such approval.

648 (c) The development agency may, with the approval of the

649 legislative body and, of the commissioner if any grants were made by
650 the state under section 8-190 or 8-195 for such development project,
651 and in the name of such municipality, transfer by sale or lease at fair
652 market value or fair rental value, as the case may be, the whole or any
653 part of the real property in the project area to any person, in
654 accordance with the project plan and such disposition plans as may
655 have been determined by the commissioner.

656 [(b)] (d) A development agency shall have all the powers necessary
657 or convenient to undertake and carry out development plans and
658 development projects, including the power to clear, demolish, repair,
659 rehabilitate, operate, or insure real property while it is in its
660 possession, to make site improvements essential to the preparation of
661 land for its use in accordance with the development plan, to install,
662 construct or reconstruct streets, utilities and other improvements
663 necessary for carrying out the objectives of the development project,
664 and, in distressed municipalities, as defined in section 32-9p, to lend
665 funds to businesses and industries in a manner approved by the
666 commissioner.

667 (e) (1) On and after the effective date of this section, on the date a
668 certificate of taking is filed pursuant to section 8-129, as amended by
669 this act, for property acquired by eminent domain pursuant to this
670 section, the development agency shall record with the certificate of
671 taking separate findings that itemize the value of the real property and
672 any structures or improvements on the real property so acquired.

673 (2) (A) If real property acquired on or after the effective date of this
674 section is not used for the purpose for which it was acquired or for
675 some other public use and is subsequently offered for sale, the real
676 property shall be first offered for sale pursuant to subparagraph (B) of
677 this subdivision to the person from whom the real property was
678 acquired, or heirs of the person designated pursuant to subparagraph
679 (B) of this subdivision, if any, for a price not greater than the amount of
680 compensation paid for such real property, after any appeal or
681 settlement, less (i) the value of any structures or improvements

682 removed from the real property by the development agency or its
683 designee after the real property was acquired as set forth in the
684 recorded findings, (ii) the value of any improvements the agency made
685 to the property, and (iii) the amount of any depreciation, as defined in
686 section 45a-542z. After the municipality provides notice pursuant to
687 subparagraph (B) of this subdivision, the municipality may not sell
688 such property to a third party unless the municipality has permitted
689 the person or named heirs six months to exercise the right to purchase
690 the property, and an additional six months to finalize the purchase if
691 the person or named heirs provide the municipality with notice of
692 intent to purchase the property within the initial six-month period.

693 (B) For the purposes of any offer of sale pursuant to this
694 subdivision, the municipality shall provide a form to any person
695 whose property is acquired pursuant to this section to permit such
696 person to provide an address for notice of sale to be sent, or to provide
697 the name and address of an agent to receive such notice. Such form
698 shall be designed to permit the person to designate heirs of the person
699 who shall be eligible to purchase such property pursuant to this
700 subdivision. The person or agent shall update information in the form
701 in writing. If the person or agent does not provide or update the
702 information in the form in a manner that permits the municipality to
703 send notice of sale pursuant to this subsection, no such notice shall be
704 required.

705 (f) The owner-occupant of property acquired under this section may
706 appeal the decision of the development agency to the superior court
707 for the judicial district in which the municipality is located. The
708 appeal shall be commenced by service of process not more than fifteen
709 days from the date that notice of the approved acquisition was
710 published under subparagraph (B) of subdivision (4) of subsection (a)
711 of section 8-128, as amended by this act. The appeal shall be returned
712 to court in the same manner and within the same period of time as
713 prescribed for civil actions brought to that court. Upon an appeal taken
714 under this section, the burden of proof shall be on the development
715 agency to prove, by clear and convincing evidence based the record

716 compiled before such agency, that acquisition of the property is
717 consistent with the provisions of subdivision (14) of section 8-189, as
718 amended by this act. If the development agency does not satisfy the
719 burden of proof under this section, the court shall order the agency to
720 reverse its decision.

721 Sec. 10. Section 8-200 of the general statutes is repealed and the
722 following is substituted in lieu thereof (*Effective from passage and*
723 *applicable to property acquired on or after said date*):

724 (a) A development plan may be modified at any time by the
725 development agency, provided, if modified after the lease or sale of
726 real property in the development project area, the modification must
727 be consented to by the lessees or purchasers of such real property or
728 their successor or successors in interest affected by the proposed
729 modification. Where the proposed modification will substantially
730 change the development plan as previously approved, the
731 modification must be approved in the same manner as the
732 development plan.

733 (b) If after three years from the date of approval of the development
734 plan the development agency has been unable to transfer by sale or
735 lease at fair market value or fair rental value, as the case may be, the
736 whole or any part of the real property acquired in the project area to
737 any person in accordance with the project plan, and no grant has been
738 made for such project pursuant to section 8-195, the municipality may,
739 by vote of its legislative body, abandon the project plan and such real
740 property may be conveyed free of any restriction, obligation or
741 procedure imposed by the plan but shall be subject to all other local
742 and state laws, ordinances or regulations, including, but not limited to,
743 any offer of sale required under subsection (e) of section 8-193, as
744 amended by this act.

745 Sec. 11. Section 8-268 of the general statutes is repealed and the
746 following is substituted in lieu thereof (*Effective from passage and*
747 *applicable to property acquired on or after said date*):

748 (a) Whenever a program or project undertaken by a state agency or
749 under the supervision of a state agency will result in the displacement
750 of any person on or after July 6, 1971, the head of such state agency
751 shall make payment to any displaced person, upon proper application
752 as approved by such agency head, for (1) actual reasonable expenses in
753 moving himself, his family, business, farm operation or other personal
754 property, (2) actual direct losses of tangible personal property as a
755 result of moving or discontinuing a business or farm operation, but not
756 to exceed an amount equal to the reasonable expenses that would have
757 been required to relocate such property, as determined by the state
758 agency, and (3) actual reasonable expenses in searching for a
759 replacement business or farm, provided, whenever any tenant in any
760 dwelling unit is displaced as the result of the enforcement of any code
761 to which this section is applicable by any town, city or borough or
762 agency thereof, the landlord of such dwelling unit shall be liable for
763 any payments made by such town, city or borough pursuant to this
764 section or by the state pursuant to subsection (b) of section 8-280, and
765 the town, city or borough or the state may place a lien on any real
766 property owned by such landlord to secure repayment to the town,
767 city or borough or the state of such payments, which lien shall have the
768 same priority as and shall be filed, enforced and discharged in the
769 same manner as a lien for municipal taxes under chapter 205.

770 (b) Any displaced person eligible for payments under subsection (a)
771 of this section who is displaced from a dwelling and who elects to
772 accept the payments authorized by this subsection in lieu of the
773 payments authorized by subsection (a) of this section may receive a
774 moving expense allowance, determined according to a schedule
775 established by the state agency, not to exceed three hundred dollars
776 and a dislocation allowance of two hundred dollars.

777 (c) Any displaced person eligible for payments under subsection (a)
778 of this section who is displaced from [his] the person's place of
779 business or from [his] the person's farm operation and who elects to
780 accept the payment authorized by this subsection in lieu of the
781 payment authorized by subsection (a) of this section, may receive a

782 fixed payment in an amount equal to the average annual net earnings
783 of the business or farm operation, except that such payment shall not
784 be less than two thousand five hundred dollars nor more than ten
785 thousand dollars. In the case of a business, (1) no payment shall be
786 made under this subsection unless the state agency is satisfied that the
787 business [(1)] (A) cannot be relocated without a substantial loss of its
788 existing patronage, and [(2)] (B) is not a part of a commercial enterprise
789 having at least one other establishment not being acquired by the state,
790 which is engaged in the same or similar business; and (2) payments
791 under this subsection shall be adjusted to reflect any increase or
792 decrease in good will and such increase or decrease in good will shall
793 be calculated separately. For purposes of this subsection, [the term]
794 "average annual net earnings" means one half of any net earnings of
795 the business or farm operation, before federal, state and local income
796 taxes, during the two taxable years immediately preceding the taxable
797 year in which such business or farm operation moves from the real
798 property acquired for such project, or during such other period as such
799 agency determines to be more equitable for establishing such earnings,
800 and includes any compensation paid by the business or farm operation
801 to the owner, [his] the owner's spouse or [his] the owner's dependents
802 during such period; and "good will" means the benefits that accrue to a
803 business that are unique to its location.

804 (d) Notwithstanding the provisions of this section, the head of the
805 state agency shall make relocation payments as provided under the
806 federal Uniform Relocation Assistance and Real Property Acquisition
807 Policies Act of 1970, 42 USC 4601 et seq. and any subsequent
808 amendments thereto and regulations promulgated thereunder if
809 payments under said act and regulations would be greater than
810 payments under this section and sections 8-269 and 8-270, as amended
811 by this act.

812 Sec. 12. Section 8-269 of the general statutes is amended by adding
813 subsection (c) as follows (*Effective from passage and applicable to property*
814 *acquired on or after said date*):

815 (NEW) (c) Notwithstanding the provisions of this section, the head
816 of the state agency shall make relocation payments as provided under
817 the federal Uniform Relocation Assistance and Real Property
818 Acquisition Policies Act of 1970, 42 USC 4601 et seq. and any
819 subsequent amendments thereto and regulations promulgated
820 thereunder if payments under said act and regulations would be
821 greater than payments under this section and sections 8-268 and 8-270,
822 as amended by this act.

823 Sec. 13. Section 8-270 of the general statutes is repealed and the
824 following is substituted in lieu thereof (*Effective from passage and*
825 *applicable to property acquired on or after said date*):

826 (a) In addition to amounts otherwise authorized by this chapter, a
827 state agency shall make a payment to or for any displaced person
828 displaced from any dwelling not eligible to receive a payment under
829 section 8-269, as amended by this act, which dwelling was actually and
830 lawfully occupied by such displaced person for not less than ninety
831 days prior to the initiation of negotiations for acquisition of such
832 dwelling under the program or project which results in such person
833 being displaced. Such payment shall be either (1) the amount necessary
834 to enable such displaced person to lease or rent for a period not to
835 exceed four years, a decent, safe, and sanitary dwelling of standards
836 adequate to accommodate such person in areas not generally less
837 desirable [in] with regard to public utilities and public and commercial
838 facilities, and reasonably accessible to [his] such displaced person's
839 place of employment, but not to exceed four thousand dollars, or (2)
840 the amount necessary to enable such displaced person to make a down
841 payment, including reasonable expenses incurred by such displaced
842 person for evidence of title, recording fees, and other closing costs
843 incident to the purchase of a decent, safe, and sanitary dwelling of
844 standards adequate to accommodate such person in areas not
845 generally less desirable [in] with regard to public utilities and public
846 and commercial facilities, but not to exceed four thousand dollars,
847 except that if such amount exceeds two thousand dollars, such person
848 must equally match any such amount in excess of two thousand

849 dollars in making the downpayment, and provided, whenever any
850 tenant in any dwelling unit is displaced as the result of the
851 enforcement of any code to which this section is applicable by any
852 town, city or borough or agency thereof, the landlord of such dwelling
853 unit shall be liable for any payments made by such town, city or
854 borough pursuant to this section or by the state pursuant to subsection
855 (b) of section 8-280, and the town, city or borough or the state may
856 place a lien on any real property owned by such landlord to secure
857 repayment to the town, city or borough or the state of such payments,
858 which lien shall have the same priority as and shall be filed, enforced
859 and discharged in the same manner as a lien for municipal taxes under
860 chapter 205.

861 (b) Notwithstanding the provisions of this section, the head of the
862 state agency shall make relocation payments as provided under the
863 federal Uniform Relocation Assistance and Real Property Acquisition
864 Policies Act of 1970, 42 USC 4601 et seq. and any subsequent
865 amendments thereto and regulations promulgated thereunder if
866 payments under said act and regulations would be greater than
867 payments under this section and sections 8-268 and 8-269, as amended
868 by this act.

869 Sec. 14. Section 32-224 of the general statutes is repealed and the
870 following is substituted in lieu thereof (*Effective from passage and*
871 *applicable to property acquired on or after said date*):

872 (a) Any municipality which has a planning commission may, by
873 vote of its legislative body, designate an implementing agency to
874 exercise the powers granted under sections 32-220 to 32-234, inclusive.
875 Any municipality may, with the approval of the commissioner,
876 designate a separate implementing agency for each municipal
877 development project undertaken by such municipality pursuant to
878 said sections.

879 (b) The implementing agency may initiate a municipal development
880 project by preparing and submitting a development plan to the
881 commissioner. Such plan shall meet an identified public need and

882 include: (1) A legal description of the real property within the
883 boundaries of the project area; (2) a description of the present
884 condition and uses of such real property; (3) a description of the
885 process utilized by the agency to prepare the plan and a description of
886 alternative approaches considered to achieve project objectives; (4) a
887 description of the types and locations of land uses or building uses
888 proposed for the project area; [(4)] (5) a description of the types and
889 locations of present and proposed streets, sidewalks and sanitary,
890 utility and other facilities and the types and locations of other
891 proposed project improvements; [(5)] (6) statements of the present and
892 proposed zoning classification and subdivision status of the project
893 area and the areas adjacent to the project area; [(6)] (7) a plan for
894 relocating project area occupants; [(7)] (8) a financing plan; [(8)] (9) an
895 administrative plan; [(9)] (10) an environmental analysis, marketability
896 and proposed land use study, or building use study if required by the
897 commissioner; [(10)] (11) appraisal reports and title searches if
898 required by the commissioner; [(11)] (12) a description of the
899 [economic] public benefit of the project, including, but not limited to,
900 (A) the number of jobs which the implementing agency anticipates
901 would be created or retained by the project, (B) the estimated property
902 tax benefits, [and] (C) the number and types of existing housing units
903 in the municipality in which the project would be located, and in
904 contiguous municipalities, which would be available to employees
905 filling such jobs, [and (12)] (D) a general description of infrastructure
906 improvements, including public access, facilities or use, that the
907 implementing agency anticipates may be needed to implement the
908 development plan, (E) a general description of the implementing
909 agency's goals for blight remediation or, if known, environmental
910 remediation, (F) a general description of any aesthetic improvements
911 that the implementing agency anticipates may be generated by the
912 project, (G) a general description of the project's intended role in
913 increasing or sustaining market value of land in the municipality, (H) a
914 general description of the project's intended role in assisting residents
915 of the municipality to improve their standard of living, and (I) a
916 general statement of the project's role in maintaining or enhancing the

917 competitiveness of the municipality; (13) a finding that (A) the land
918 and buildings within the boundaries of the project area will be used
919 principally for manufacturing or other economic base business
920 purposes or business support services; (B) the plan is in accordance
921 with the plan of development for the municipality, if any, adopted by
922 its planning commission under section 8-23, and the plan of
923 development of the regional planning agency adopted under section 8-
924 35a, if any, for the region within which the municipality is located; (C)
925 the plan [is not inimical to any] was prepared giving due consideration
926 to the state plan of conservation and development adopted under
927 chapter 297 and other state-wide planning program objectives of the
928 state or state agencies as coordinated by the Secretary of the Office of
929 Policy and Management; and (D) the project will contribute to the
930 economic welfare of the municipality and the state and that to carry
931 out and administer the project, public action under sections 32-220 to
932 32-234, inclusive, is required; and (14) a preliminary statement
933 describing the proposed process for acquiring each parcel of real
934 property, including findings that (A) public benefits resulting from the
935 project will outweigh any private benefits; (B) existing use of the real
936 property cannot be feasibly integrated into the overall plan for the
937 project; (C) acquisition by eminent domain is reasonably necessary to
938 successfully achieve the objectives of such plan; and (D) the project
939 will have public benefits that do not include consideration of the
940 effects of the project on local tax revenues. The provisions of this
941 subsection with respect to submission of a development plan to and
942 approval by the commissioner and with respect to a finding that the
943 plan [is not inimical to any] was prepared giving due consideration to
944 the state plan of conservation and development and state-wide
945 planning program objectives of the state or its agencies shall not apply
946 to a project for which no financial assistance has been given and no
947 application for financial assistance is to be made under section 32-223.
948 Any plan [which] that has been prepared under chapters 130, 132 or
949 588a may be submitted by the implementing agency to the legislative
950 body of the municipality and to the commissioner in lieu of a plan
951 initiated and prepared in accordance with this section, provided all

952 other requirements of sections 32-220 to 32-234, inclusive, for obtaining
953 the approval of the commissioner of the development plan are
954 satisfied. Any action taken in connection with the preparation and
955 adoption of such plan shall be deemed effective to the extent such
956 action satisfies the requirements of said sections.

957 (c) No plan shall be adopted unless the planning commission of the
958 municipality finds that the plan is in accord with the plan of
959 development, if any, for the municipality and the regional planning
960 agency, if any, organized under chapter 127 for the region within
961 which such municipality is located finds that such plan is in accord
962 with the plan of development, if any, for such region. If the regional
963 planning agency fails to make a finding concerning the plan within
964 thirty-five days of receipt thereof, by such agency, it shall be presumed
965 that such agency does not disapprove of the plan. The implementing
966 agency shall hold at least one public hearing on the plan and shall
967 cause notice of the time, place, and subject of any public hearing to be
968 published at least once in a newspaper of general circulation in the
969 municipality not less than one week nor more than three weeks prior
970 to the date of such public hearing. At least thirty-five days prior to the
971 public hearing the implementing agency shall post the draft plan on
972 the Internet web site of the implementing agency, if any. Upon
973 adoption of the plan the implementing agency shall submit the plan to
974 the legislative body of the municipality for approval or disapproval.
975 Any approval by the implementing agency and legislative body of the
976 municipality made under this section shall specifically provide for
977 approval of any findings contained therein. After approval of the plan
978 by the legislative body of the municipality, [such] the plan shall be
979 submitted to the commissioner for his approval. If the commissioner
980 requires a substantial modification of the plan as a condition of
981 approval, the plan shall be subject to a public hearing and approval by
982 the implementing agency and the legislative body of the municipality
983 in accordance with the provisions of this subsection. The implementing
984 agency shall cause notice of the approval of the plan to be published in
985 a newspaper having general circulation in the municipality. The plan
986 shall be effective for a period of five years after the date of adoption.

987 Thereafter, it shall be reviewed by the implementing agency at least
988 once every five years and may be adopted again or amended in
989 accordance with this section.

990 (d) The implementing agency shall cause notice of the approval of
991 the plan to be published in a newspaper having general circulation in
992 the municipality. Any owner of property located in the project area
993 may appeal the findings of the agency under subdivision (14) of this
994 section to the superior court for the judicial district in which the
995 municipality is located. The appeal shall be commenced by service of
996 process not more than fifteen days from the date that notice of the
997 approval of the plan was published as required by this section. The
998 appeal shall be returned to the court in the same manner and within
999 the same period of time as prescribed for civil actions brought to that
1000 court. Upon an appeal taken under this section, the burden of proof
1001 shall be on the implementing agency to prove, by clear and convincing
1002 evidence and based upon the evidence in the record compiled before
1003 such agency, that the findings in the plan from which such appeal is
1004 taken and the reasons cited for such findings are supported by
1005 sufficient evidence in the record. If the implementing agency does not
1006 satisfy the burden of proof under this section, the court shall order the
1007 agency to wholly or partly revise, modify or remand the findings from
1008 which the appeal was taken in a manner consistent with the evidence
1009 in the record before it.

1010 [(d)] (e) A development plan may be modified at any time by the
1011 implementing agency, provided, if modified after the lease or sale of
1012 real property in the project area, the lessees or purchasers of such real
1013 property or their successor or successors in interest affected by the
1014 proposed modification shall consent to such modification. If the
1015 proposed modification will substantially alter the development plan as
1016 previously approved, the modification shall be subject to the approval
1017 of the local legislative body of the municipality and the commissioner
1018 in the same manner as approval of the development plan. The
1019 municipality may, by vote of its legislative body, abandon the
1020 development plan and convey such real property within the

1021 boundaries of the project area free of any restriction, obligation or
1022 procedure imposed by the plan subject to all other local and state laws,
1023 ordinances or regulations, including, but not limited to, any offer of
1024 sale required under subsection (i) of this section, if after three years
1025 from the date of approval of the plan the implementing agency has not
1026 transferred by sale or lease all or any part of the real property acquired
1027 in the project area to any person in accordance with the development
1028 plan and no grant of financial assistance under sections 32-220 to 32-
1029 234, inclusive, has been given for such project other than for activities
1030 related to the planning of the project pursuant to section 32-222.

1031 [(e)] (f) The implementing agencies of two or more municipalities
1032 may, after approval by each legislative body thereof, jointly initiate a
1033 development project if the project area is to be located in one or more
1034 of such municipalities. Such implementing agencies, after approval by
1035 the commissioner of the development plan for the project if any state
1036 aid is to be requested under section 32-223, may enter into and amend
1037 subject to the approval of the commissioner, an agreement to jointly
1038 carry out the development plan. Such agreement may include
1039 provisions for furnishing municipal services to the project and sharing
1040 costs of and revenues from the project, including property tax and
1041 rental receipts. The development plan shall include a proposed form of
1042 the agreement to be entered into by the municipalities. Each
1043 municipality which is a party to an agreement may make
1044 appropriations and levy taxes in accordance with the provisions of the
1045 general statutes and may issue bonds in accordance with section 32-
1046 227 to further its obligations under the agreement.

1047 [(f)] (g) As used in this subsection, "public service facility" includes
1048 any sewer, pipe, main conduit, cable, wire, pole, tower, building or
1049 utility appliance owned or operated by an electric, gas, telephone,
1050 telegraph or water company. Whenever an implementing agency
1051 determines that the closing of any street or public right-of-way is
1052 provided for in a development plan adopted and approved in
1053 accordance with sections 32-220 to 32-234, inclusive, or where the
1054 carrying out of such a development plan, including the construction of

1055 new improvements, requires the temporary or permanent
1056 readjustment, relocation or removal of a public service facility from a
1057 street or public right-of-way, the implementing agency shall issue an
1058 appropriate order to the company owning or operating such facility.
1059 Such company shall permanently or temporarily readjust, relocate or
1060 remove the public service facility promptly in accordance with such
1061 order, provided an equitable share of the cost of such readjustment,
1062 relocation or removal, including the cost of installing and constructing
1063 a facility of equal capacity in a new location, shall be borne by the
1064 implementing agency. Such equitable share shall be fifty per cent of
1065 such cost after the deduction hereinafter provided. In establishing the
1066 equitable share of the cost to be borne by the implementing agency,
1067 there shall be deducted from the cost of the readjusted, relocated or
1068 removed facilities a sum based on a consideration of the value of
1069 materials salvaged from existing installations, the cost of the original
1070 installation, the life expectancy of the original facility and the
1071 unexpired term of such life use. The books and records of the company
1072 shall be made available for inspection by the implementing agency to
1073 determine the equitable share of the cost of such readjustment,
1074 relocation or removal. When any facility is removed from a street or
1075 public right-of-way to a private right-of-way, the implementing agency
1076 shall not pay for such private right-of-way. If the implementing agency
1077 and the company owning or operating such facility cannot agree upon
1078 the share of the cost to be borne by the implementing agency, such
1079 agency or the company may apply to the superior court for the judicial
1080 district within which the street or public right-of-way is situated, or, if
1081 the court is not in session, to any judge thereof, for a determination of
1082 the cost to be borne by the implementing agency. The court or the
1083 judge, after causing notice of the pendency of such application to be
1084 given to the other party, shall appoint a state referee to make such
1085 determination. The referee, having given at least ten days' notice to the
1086 interested parties of the time and place of the hearing, shall hear both
1087 parties, take such testimony as he may deem material and thereupon
1088 determine the amount of the cost to be borne by the implementing
1089 agency. The referee shall immediately report the amount to the court.

1090 If the report is accepted by the court, such determination shall, subject
1091 to right of appeal as in civil actions, be conclusive upon such parties.

1092 [(g)] (h) After approval of the development plan pursuant to
1093 sections 32-220 to 32-234, inclusive, the implementing agency may by
1094 purchase, lease, exchange or gift acquire or rent real property
1095 necessary or appropriate for the project as identified in the
1096 development plan and real property and interests therein for rights-of-
1097 way and other easements to and from the project area.

1098 (i) (1) The implementing agency may, with the approval of the
1099 legislative body of the municipality, and in the name of the
1100 municipality, condemn in accordance with section 8-128 to 8-133,
1101 inclusive, as amended by this act, any real property necessary or
1102 appropriate for the project as identified in the development plan,
1103 including real property and interests in land for rights-of-way and
1104 other easements to and from the project area. The legislative body shall
1105 not approve the use of condemnation by the implementing agency
1106 unless the legislative body has (A) considered the benefits to the public
1107 and any private entity that will result from the municipal development
1108 project and determined that the public benefits outweigh any private
1109 benefits, (B) determined that the current use of the real property
1110 cannot be feasibly integrated into the overall development plan, and
1111 (C) determined that the acquisition of the real property by
1112 condemnation is reasonably necessary to successfully achieve the
1113 objectives of the development plan. No owner occupied property may
1114 be acquired by eminent domain unless the implementing agency
1115 submits information to the legislative body sufficient for such
1116 legislative body to determine by clear and convincing evidence that
1117 the redevelopment plan cannot be implemented without acquisition of
1118 the property by eminent domain. Such information shall include, but
1119 not be limited to, surveys, engineering studies, architectural drawing
1120 and planning reports. The implementing agency shall provide to the
1121 owner of the property a copy of all information submitted to the
1122 legislative body.

1123 (2) Before the legislative body approves any acquisition by
1124 condemnation pursuant to this subsection, the legislative body shall
1125 conduct a public hearing on the acquisition. The municipality shall
1126 cause notice of the time, place and subject of the hearing to be
1127 published in a newspaper having a substantial circulation in the
1128 municipality not more than ten days before the date set for the hearing.
1129 Not less than ten days before the date of the hearing, the legislative
1130 body shall send, by first class mail, notice of the time, place and subject
1131 of the hearing to the owners of record of the real property and to all
1132 owners of real property within one hundred feet of the real property to
1133 be acquired by condemnation.

1134 (3) (A) No parcel of real property may be acquired by condemnation
1135 under this subsection except upon approval by vote of at least two-
1136 thirds of the members of the legislative body of the municipality. Such
1137 approval shall be by (i) separate vote on each parcel of real property to
1138 be acquired, or (ii) a vote on one or more groups of such parcels,
1139 provided each parcel to be acquired is identified for the purposes of a
1140 vote on a group of such parcels under this subparagraph.

1141 (B) The municipality shall cause notice of any approved acquisition
1142 under this subdivision to be published in a newspaper having a
1143 substantial circulation in the municipality not more than ten days after
1144 such approval.

1145 (4) Any property identified in the plan as property to be acquired by
1146 eminent domain must be so acquired by a date that is five years after
1147 the date of approval of the initial plan unless the legislative body of the
1148 municipality approves an extension of the time for acquisition. An
1149 extension shall be for a period of five years. No property may be
1150 acquired more than ten years after adoption of the initial plan.

1151 (j) (1) On and after the effective date of this section, on the date a
1152 certificate of taking is filed pursuant to section 8-129, as amended by
1153 this act, for property acquired by eminent domain pursuant to this
1154 section, the development agency shall record with the certificate of
1155 taking separate findings that itemize the value of the real property and

1156 any structures or improvements on the real property so acquired.

1157 (2) (A) If real property acquired on or after the effective date of this
1158 section is not used for the purpose for which it was acquired or for
1159 some other public use and is subsequently offered for sale, the real
1160 property shall be first offered for sale pursuant to subparagraph (B) of
1161 this subdivision to the person from whom the real property was
1162 acquired, or heirs of the person designated pursuant to subparagraph
1163 (B) of this subdivision, if any, for a price not greater than the amount of
1164 compensation paid for such real property, after any appeal or
1165 settlement, less (i) the value of any structures or improvements
1166 removed from the real property by the development agency or its
1167 designee after the real property was acquired as set forth in the
1168 recorded findings, (ii) the value of any improvements the agency made
1169 to the property, and (iii) the amount of any depreciation, as defined in
1170 section 45a-542z. After the municipality provides notice pursuant to
1171 subparagraph (B) of this subdivision, the municipality may not sell
1172 such property to a third party unless the municipality has permitted
1173 the person or named heirs six months during which to exercise the
1174 right to purchase the property, and an additional six months to finalize
1175 the purchase if the person or named heirs provide the municipality
1176 with notice of intent to purchase the property within the initial six-
1177 month period.

1178 (B) For the purposes of any offer of sale pursuant to this
1179 subdivision, the municipality shall provide a form to any person
1180 whose property is acquired pursuant to this section to permit such
1181 person to provide an address for notice of sale to be sent, or to provide
1182 the name and address of an agent to receive such notice. Such form
1183 shall be designed to permit the person to designate heirs of the person
1184 who shall be eligible to purchase such property pursuant to this
1185 subdivision. The person or agent shall update information in the form
1186 in writing. If the person or agent does not provide or update the
1187 information in the form in a manner that permits the municipality to
1188 send notice of sale pursuant to this subsection, no such notice shall be
1189 required.

1190 (k) The owner-occupant of property acquired under this section
1191 may appeal the decision of the implementing agency to the superior
1192 court for the judicial district in which the municipality is located . The
1193 appeal shall be commenced by service of process not more than fifteen
1194 days from the date that notice of the approved acquisition was under
1195 subparagraph (B) of subdivision (4) of subsection (a) of section 8-128.
1196 The appeal shall be returned to the court in the same manner and
1197 within the same period of time as prescribed for civil actions brought
1198 to that court. Upon an appeal taken under this section, the burden of
1199 proof shall be on the development agency to prove, by clear and
1200 convincing evidence based upon the record compiled before such
1201 agency, that acquisition of the property is consistent with the
1202 provisions of subdivision (14) of subsection (b) of this section. If the
1203 implementing agency does not satisfy the burden of proof under this
1204 section, the court shall order such agency to reverse its decision.

1205 Sec. 15. Section 48-50 of the general statutes is repealed and the
1206 following is substituted in lieu thereof (*Effective from passage*):

1207 (a) There is established an Office of Ombudsman for Property
1208 Rights which shall be within the Office of Policy and Management for
1209 administrative purposes only. The Office of Ombudsman for Property
1210 Rights shall be under the direction of an Ombudsman for Property
1211 Rights who shall be appointed in accordance with section 48-51.

1212 (b) The Office of Ombudsman for Property Rights shall:

1213 (1) Develop and maintain expertise in, and understanding of, the
1214 (A) provisions of the federal and state constitutions governing the
1215 taking of private property and provisions of state law authorizing a
1216 public agency to take private property, and (B) case law interpreting
1217 such provisions;

1218 (2) At the request of a public agency, assist the public agency in
1219 applying constitutional and statutory provisions concerning eminent
1220 domain;

1221 (3) At the request of a public agency, provide assistance in
1222 analyzing actions that have potential eminent domain implications;

1223 (4) At the request of a private property owner, provide assistance
1224 concerning eminent domain procedures;

1225 (5) Identify state or local governmental actions that have potential
1226 eminent domain implications and, if appropriate, advise the
1227 appropriate public agency about such implications;

1228 (6) Provide information to private citizens, civic groups and other
1229 interested parties about eminent domain law and their rights with
1230 respect to eminent domain;

1231 (7) Mediate disputes between private property owners and public
1232 agencies concerning the use of eminent domain or related relocation
1233 assistance as provided in section 48-52, and the Office of Ombudsman
1234 for Property Rights may, within available appropriations, hire an
1235 independent real estate appraiser to assist in such mediation; [and]

1236 (8) Recommend to the General Assembly changes that, in the
1237 opinion of the Ombudsman for Property Rights, should be made to the
1238 general statutes related to eminent domain powers and procedures;
1239 and

1240 (9) Select the appraisal to be used to determine and quantify the
1241 amount of compensation to property owners, pursuant to section 8-
1242 129, as amended by this act, for property acquired by eminent domain
1243 by a redevelopment agency under section 8-128, as amended by this
1244 act.

1245 (c) For the purposes of this section and sections 48-51 to 48-57,
1246 inclusive, "public agency" means a public agency, as defined in section
1247 1-200, with the power to acquire property through eminent domain
1248 and includes an entity authorized to acquire property through eminent
1249 domain on behalf of the public agency.

1250 Sec. 16. Section 52-192a of the general statutes is repealed and the

1251 following is substituted in lieu thereof (*Effective from passage and*
1252 *applicable to applications filed on or after said date*):

1253 (a) After commencement of any civil action based upon contract or
1254 seeking the recovery of money damages, whether or not other relief is
1255 sought, the plaintiff may, not earlier than one hundred eighty days
1256 after service of process is made upon the defendant in such action but
1257 not later than thirty days before trial, file with the clerk of the court a
1258 written offer of compromise signed by the plaintiff or the plaintiff's
1259 attorney, directed to the defendant or the defendant's attorney,
1260 offering to settle the claim underlying the action for a sum certain. For
1261 the purposes of this section, such plaintiff includes a counterclaim
1262 plaintiff under section 8-132, as amended by this act. The plaintiff shall
1263 give notice of the offer of compromise to the defendant's attorney or, if
1264 the defendant is not represented by an attorney, to the defendant
1265 himself or herself. Within thirty days after being notified of the filing
1266 of the offer of compromise and prior to the rendering of a verdict by
1267 the jury or an award by the court, the defendant or the defendant's
1268 attorney may file with the clerk of the court a written acceptance of the
1269 offer of compromise agreeing to settle the claim underlying the action
1270 for the sum certain specified in the plaintiff's offer of compromise.
1271 Upon such filing and the receipt by the plaintiff of such sum certain,
1272 the plaintiff shall file a withdrawal of the action with the clerk and the
1273 clerk shall record the withdrawal of the action against the defendant
1274 accordingly. If the offer of compromise is not accepted within thirty
1275 days and prior to the rendering of a verdict by the jury or an award by
1276 the court, the offer of compromise shall be considered rejected and not
1277 subject to acceptance unless refiled. Any such offer of compromise and
1278 any acceptance of the offer of compromise shall be included by the
1279 clerk in the record of the case.

1280 (b) In the case of any action to recover damages resulting from
1281 personal injury or wrongful death, whether in tort or in contract, in
1282 which it is alleged that such injury or death resulted from the
1283 negligence of a health care provider, an offer of compromise pursuant
1284 to subsection (a) of this section shall state with specificity all damages

1285 then known to the plaintiff or the plaintiff's attorney upon which the
1286 action is based. At least sixty days prior to filing such an offer, the
1287 plaintiff or the plaintiff's attorney shall provide the defendant or the
1288 defendant's attorney with an authorization to disclose medical records
1289 that meets the privacy provisions of the Health Insurance Portability
1290 and Accountability Act of 1996 (P.L. 104-191) (HIPAA), as amended
1291 from time to time, or regulations adopted thereunder, and disclose any
1292 and all expert witnesses who will testify as to the prevailing
1293 professional standard of care. The plaintiff shall file with the court a
1294 certification that the plaintiff has provided each defendant or such
1295 defendant's attorney with all documentation supporting such
1296 damages.

1297 (c) After trial the court shall examine the record to determine
1298 whether the plaintiff made an offer of compromise which the
1299 defendant failed to accept. If the court ascertains from the record that
1300 the plaintiff has recovered an amount equal to or greater than the sum
1301 certain specified in the plaintiff's offer of compromise, the court shall
1302 add to the amount so recovered eight per cent annual interest on said
1303 amount, except in the case of a counterclaim plaintiff under section 8-
1304 132, as amended by this act, the court shall add to the amount so
1305 recovered eight per cent annual interest on the amount of the rejected
1306 offer. The interest shall be computed from the date the complaint in the
1307 civil action or application under section 8-132, as amended by this act,
1308 was filed with the court if the offer of compromise was filed not later
1309 than eighteen months from the filing of such complaint or application.
1310 If such offer was filed later than eighteen months from the date of
1311 filing of the complaint or application, the interest shall be computed
1312 from the date the offer of compromise was filed. The court may award
1313 reasonable attorney's fees in an amount not to exceed three hundred
1314 fifty dollars, and shall render judgment accordingly. This section shall
1315 not be interpreted to abrogate the contractual rights of any party
1316 concerning the recovery of attorney's fees in accordance with the
1317 provisions of any written contract between the parties to the action.

1318 Sec. 17. (NEW) (*Effective from passage*) (a) No person who negotiates

1319 the acquisition or rental of real property may represent in such
1320 negotiation that the person has the power to acquire the property by
1321 eminent domain unless the person has such power. The provisions of
1322 this section shall not apply to the chief executive official of a
1323 municipality.

1324 (b) Any violation of subsection (a) of this section shall be deemed an
1325 unfair or deceptive trade practice under subsection (a) of section 42-
1326 110b of the general statutes.

1327 Sec. 18. Section 13a-73 of the general statutes is repealed and the
1328 following is substituted in lieu thereof (*Effective from passage and*
1329 *applicable to property acquired on or after said date*):

1330 (a) As used in this section:

1331 (1) "Real property" [as used in this section, includes] means land
1332 and buildings and any estate, interest or right in land; and

1333 (2) "Business value" means the price of a specific business interest at
1334 which a willing seller will sell and a willing buyer will buy when
1335 neither is compelled to sell or buy and both have reasonable
1336 knowledge of relevant circumstances.

1337 (b) The commissioner may take any land he finds necessary for the
1338 layout, alteration, extension, widening, change of grade or other
1339 improvement of any state highway or for a highway maintenance
1340 storage area or garage and the owner of such land shall be paid by the
1341 state for all damages, and the state shall receive from such owner the
1342 amount or value of all benefits, resulting from such taking, layout,
1343 alteration, extension, widening, change of grade or other
1344 improvement. The use of any site acquired for highway maintenance
1345 storage area or garage purposes by condemnation shall conform to any
1346 zoning ordinance or development plan in effect for the area in which
1347 such site is located, provided the commissioner may be granted any
1348 variance or special exception as may be made pursuant to the zoning
1349 ordinances and regulations of the town in which any such site is to be

1350 acquired. The assessment of such damages and of such benefits shall
1351 be made by he commissioner and filed by him with the clerk of the
1352 superior court for the judicial district in which the land affected is
1353 located. The commissioner shall give notice of such assessment to each
1354 person having an interest of record therein by mailing to each a copy
1355 of the same, postage prepaid, and, at any time after such assessment
1356 has been made by the commissioner, the physical construction of such
1357 layout, alteration, extension, widening, maintenance storage area or
1358 garage, change of grade or other improvement may be made. If notice
1359 cannot be given to any person entitled thereto because his
1360 whereabouts or existence is unknown, notice may be given by
1361 publishing a notice at least twice in a newspaper published in the
1362 judicial district and having a daily or weekly circulation in the town in
1363 which the property affected is located. Any such published notice shall
1364 state that it is a notice to the last owner of record or his surviving
1365 spouse, heirs, administrators, assigns, representatives or creditors if he
1366 is deceased, and shall contain a brief description of the property taken.
1367 Notice shall also be given by mailing to each such person at his last-
1368 known address, by registered or certified mail, a copy of such notice.
1369 If, after a search of the land and probate records, the address of any
1370 interested party cannot be found, an affidavit stating such facts and
1371 reciting the steps taken to establish the address of any such person
1372 shall be filed with the clerk of the court and accepted in lieu of service
1373 of such notice by mailing the same to the last known address of such
1374 person. Upon filing an assessment with the clerk of the court, the
1375 commissioner shall forthwith sign and file for record with the town
1376 clerk of the town in which such real property is located a certificate
1377 setting forth the fact of such taking, a description of the real property
1378 so taken and the names and residences of the owners from whom it
1379 was taken. Upon the filing of such certificate, title to such real property
1380 in fee simple shall vest in the state of Connecticut, except that, if it is so
1381 specified in such certificate, a lesser estate, interest or right shall vest in
1382 the state. The commissioner shall permit the last owner of record of
1383 such real property upon which a residence is situated to remain in
1384 such residence, rent free, for a period of one hundred twenty days after

1385 the filing of such certificate.

1386 (c) The commissioner may purchase any land and take a deed
1387 thereof in the name of the state when such land is needed in
1388 connection with the layout, construction, repair, reconstruction or
1389 maintenance of any state highway or bridge, and any land or buildings
1390 or both, necessary, in the commissioner's opinion, for the efficient
1391 accomplishment of the foregoing purpose, and may further, when the
1392 commissioner determines that it is in the best interests of the state,
1393 purchase, lease or otherwise arrange for the acquisition or exchange of
1394 land or buildings or both for use as a highway maintenance storage
1395 area or garage, provided any purchase of such land or land and
1396 buildings in an amount in excess of the sum of one hundred thousand
1397 dollars shall be approved by a state referee. The commissioner, with
1398 the advice and consent of the Attorney General, may settle and
1399 compromise any claim by any person, firm or corporation claiming to
1400 be aggrieved by such layout, construction, reconstruction, repair or
1401 maintenance by the payment of money, the transfer of other land
1402 acquired for or in connection with highway purposes, or otherwise.

1403 (d) The commissioner may purchase or take in the name of the state
1404 any land, buildings, interest in land, easements or other rights he finds
1405 necessary for the layout, construction, maintenance or use of roads or
1406 bridges authorized by section 13a-5, under the provisions of this title
1407 relating to the purchase and taking of land for state highways. Any
1408 person aggrieved by any such action of the commissioner shall have
1409 the same rights of appeal as provided in this title in relation to the
1410 taking of land by the commissioner for highway purposes.

1411 (e) The commissioner may take any land (1) which is necessary for
1412 the construction of any ditch, drain, gutter or other structure which is
1413 required for the purpose of draining any state highway; or (2) which is
1414 required for the purpose of preserving any historical monument or
1415 memorial, the removal of which is made necessary by the construction
1416 or reconstruction of a state highway. The commissioner may assess
1417 benefits and damages caused by any such construction and for the

1418 taking of any such land under the provisions of subsection (b) of this
1419 section and sections 13a-74, 13a-76, 13a-77 and 13a-78 and any person
1420 aggrieved by the assessment of any such benefits or damages shall be
1421 entitled to the relief provided for in said sections.

1422 (f) The commissioner may take or purchase rights of access to and
1423 egress from land abutting any highway or land taken or purchased as
1424 right-of-way therefor, or any other highway for the purpose of
1425 protecting the functional characteristics of any state highway or state
1426 highway appurtenances or safety of the traveling public to and from
1427 any state highway or state highway appurtenances when in his
1428 judgment such limitation of access is necessary to permit the
1429 convenient, safe and expeditious flow of traffic. Such taking or
1430 purchase shall be in the same manner and with like powers as
1431 authorized and exercised by said commissioner in taking or
1432 purchasing real property for state highway purposes.

1433 (g) When the Commissioner of Transportation finds it necessary
1434 that real property, the title to which is in the state of Connecticut and
1435 which is under the custody and control of any state department,
1436 commission or institution, be taken for the purpose of drainage,
1437 construction, alteration, reconstruction, improvement, relocation,
1438 widening and change of grade of any highway to be constructed under
1439 his supervision, he shall petition the Secretary of the Office of Policy
1440 and Management that custody of such real property be transferred to
1441 him as Commissioner of Transportation. Such petition shall set forth
1442 the necessity for such transfer and control. The Secretary of the Office
1443 of Policy and Management shall present such petition to the
1444 department, commission or institution having custody and control of
1445 such real property, and, upon the recommendation of, and subject to
1446 such consideration as may be required by, such department,
1447 commission or institution and with the approval of the Secretary of the
1448 Office of Policy and Management, such department, commission or
1449 institution shall transfer the custody and control of such real property
1450 to the Commissioner of Transportation for the purposes required.

1451 (h) All sales or exchanges of surplus property by the Department of
 1452 Transportation and matters dealing with the initial acquisition of any
 1453 existing mass transit system or the purchase or sale of properties
 1454 acquired in connection with any state highway system or mass transit
 1455 system shall be subject to review and approval of the State Properties
 1456 Review Board except that those acquisitions and administrative
 1457 settlements relating to such properties which involve sums not in
 1458 excess of five thousand dollars shall be reported to the board by the
 1459 Commissioner of Transportation but shall not be subject to such
 1460 review and approval. The Commissioner of Public Works shall be
 1461 informed for inventory purposes of any transfer effectuated in
 1462 connection with this section. The State Properties Review Board shall
 1463 not grant such approval if the Department of Transportation has failed
 1464 to comply with any applicable statutes in connection with the
 1465 proposed action.

1466 (i) (1) Whenever the commissioner proposes to take an outdoor
 1467 advertising structure, the commissioner shall notify the State
 1468 Properties Review Board. The board shall acquire such outdoor
 1469 advertising structures on behalf of the commissioner. Such outdoor
 1470 advertising structure shall be acquired by the board in accordance
 1471 within the procedures provided in this section.

1472 (2) The board shall determine the amount of compensation to the
 1473 owners of the outdoor advertising structure as follows: (A) If such
 1474 structure can be relocated, compensation shall be based on
 1475 replacement costs, or (B) if the outdoor advertising structure cannot be
 1476 located, compensation shall include an amount equal to the business
 1477 value of the outdoor advertising structure.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to property acquired on or after said date</i>	7-148(c)(3)(A)

Sec. 2	<i>from passage and applicable to property acquired on or after said date</i>	8-125
Sec. 3	<i>from passage and applicable to property acquired on or after said date</i>	8-127
Sec. 4	<i>from passage and applicable to property acquired on or after said date</i>	8-128
Sec. 5	<i>from passage and applicable to property acquired on or after said date</i>	8-129
Sec. 6	<i>from passage and applicable to property acquired on or after said date</i>	8-132
Sec. 7	<i>from passage</i>	8-189
Sec. 8	<i>from passage</i>	8-191
Sec. 9	<i>from passage and applicable to property acquired on or after said date</i>	8-193
Sec. 10	<i>from passage and applicable to property acquired on or after said date</i>	8-200
Sec. 11	<i>from passage and applicable to property acquired on or after said date</i>	8-268
Sec. 12	<i>from passage and applicable to property acquired on or after said date</i>	8-269
Sec. 13	<i>from passage and applicable to property acquired on or after said date</i>	8-270

Sec. 14	<i>from passage and applicable to property acquired on or after said date</i>	32-224
Sec. 15	<i>from passage</i>	48-50
Sec. 16	<i>from passage and applicable to applications filed on or after said date</i>	52-192a
Sec. 17	<i>from passage</i>	New section
Sec. 18	<i>from passage and applicable to property acquired on or after said date</i>	13a-73

PD**Joint Favorable Subst.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Economic & Community Development	Various - Cost	Potential Significant	Potential Significant
Judicial Dept.	GF - None	None	None
Consumer Protection, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Department of Transportation	TF - Cost	Potential Significant	Potential Significant
Policy & Mgmt., Off.	GF - See Below	See Below	See Below

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
All Municipalities	STATE MANDATE - Cost	Potential Significant	Potential Significant

Explanation

The bill adds procedural steps for a municipality in the taking of real property, including adding requirements for preparing and approving a development plan, making additional findings, additional notification requirements, and places the burden of proof for the taking on the municipality. These changes would increase the workload of municipalities that choose to undertake this process. The fiscal impact would vary depending upon the project and the municipality. The bill also changes the compensation that must be provided (up to 125% of fair market value under certain circumstances) when a municipality takes a property for economic development and it requires municipalities to compensate business owners for the loss of good will. The bill also requires agencies (state and municipal) to pay the higher of the benefits required under the state or federal Uniform Relocation Assistance Acts. It is anticipated

that these changes would significantly increase the costs to municipalities to take real property by eminent domain. Depending upon the location and type of property the potential cost increase could be significant, in the millions of dollars. In addition, there could be an increase in state costs for any state financed projects. These costs could be significant.

The bill also expands the duties of the Office of Property Rights Ombudsman (within the Office of Policy and Management) to include selecting which of 2 appraisals will be used in determining fair market value. The Ombudsmen has yet to be appointed and the Office is not staffed. The fiscal impact of this change is unclear at this time.

The bill makes it an unfair trade practice for a person negotiating to acquire property to represent that he has the power to acquire the property by eminent domain when he does not. This could result in a minimal revenue gain to the state, since violations of this section would become violations of the Connecticut Unfair Trade Practices Act (CUTPA). CUTPA revenues in FY 06 were \$384,209 for violations of all types.

There is a potential cost to the Department of Transportation and municipalities as a result of compensation for business value for outdoor advertising structures which cannot be relocated, and cannot be determined at this time but is anticipated to be significant (in excess of \$500,000).

The Judicial Department could accommodate the appeals under the bill without requiring additional resources.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of takings, inflation, and the number of violations and is unknown at this time.

OLR Bill Analysis**sSB 1054*****AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND ECONOMIC DEVELOPMENT.*****SUMMARY:**

This bill tightens the process municipalities must follow when condemning land for economic development. The process requires towns, through their development agencies, to prepare plans for developing an area or individual sites, submit the plans to their legislative bodies for approval, and compensate owners when the agencies take their properties.

The bill requires each plan to state how a proposed project benefits the public, to back those findings with information and analyses, and identify the properties slated for condemnation. It allows all property owners in the project area to appeal those findings to Superior Court where the town must back up its claims based on the evidence in the record. It requires the agency's governing board or the town's legislative body to approve the condemnations by a two-thirds vote. The plan must be reviewed and renewed every 10 years.

The bill allows people who own and occupy the properties the town plans to condemn to appeal this action to Superior Court. In doing so, it puts the burden of proof on the town to show that it cannot implement the plan without condemning the property. It allows the owners of condemned property to appeal the agency's offer of compensation to a tax judge and subjects them to the statutory procedure for settling a case.

The bill requires towns to compensate the owners of the condemned properties based on their fair market value. A town must compensate someone who owns and occupies his residence or business property at

125% of its fair market value and all other owners at 100% of that value. It must also compensate business owners for the unique value of doing business at their current location. The bill increases the relocation benefits state and local agencies must pay when they displace people from their homes, businesses, and farms.

The bill gives towns up to 10 years to complete a condemnation. A town must offer a condemned property for sale back to the original owner if it does not intend to use it as the plan requires or for another public use. The town must do this before offering the property for sale to anyone else.

Many of the changes the bill makes to the redevelopment statutes affect the steps an agency must follow when condemning property. These changes affect condemnations under other statutes that require agencies to follow the condemnation procedure specified in the redevelopment statute.

The bill requires the state to pay the owners of condemned billboards for their business value if they cannot be relocated to a comparable site. Otherwise, the state must compensate them based on the structure's replacement costs.

EFFECTIVE DATE: Upon passage and applicable to property acquired on or after that date, except the changes affecting the offer of comprise take effect upon passage and apply to applications filed on or after that date and (1) the property rights ombudsman, (2) the preparation and adoption of municipal development plans under Chapter 132, and (3) the provisions making it an unfair trade practice for someone to falsely claim to have condemnation powers take effect upon passage.

TAKINGS UNDER THE MUNICIPAL POWERS STATUTE (§ 1)

The statute specifying municipalities' general powers include acquiring or condemning land for public purposes, including education, charity, parks and gardens, and encouraging private commercial development. The bill eliminates condemnations for

private commercial development and, in doing so, allows condemnations for economic development only under a development statute.

TAKINGS UNDER THE REDEVELOPMENT STATUTES (§§ 2-6)

Planning Requirements (§ 2)

The redevelopment statutes allow towns to acquire or condemn property under a plan to redevelop an area that is deteriorated, deteriorating, substandard, or detrimental to the community's safety, health, morals, or welfare. Under the bill, a property is deteriorated or deteriorating if:

1. it has significant unremedied building, housing, or health code violations;
2. it has a high vacancy rate or is abandoned, vacant, or unoccupied;
3. the taxes owed on the property are delinquent; or
4. it has been deemed a public nuisance under the statutes or local ordinances.

The bill requires the redevelopment plan to identify each deteriorating or deteriorated parcel and indicate why it was identified as such. The plan must also identify each parcel the redevelopment agency proposed to condemn.

Initiating, Approving, and Appealing a Plan (§ 3)

The bill adds more requirements for preparing and approving a redevelopment plan. By law, the redevelopment agency must ask the town's planning commission for a written opinion about the plan before approving it. The bill requires that opinion to state whether the redevelopment plan is consistent with the town's plan of conservation and development (plan of C&D). The law requires the agency to hold a public hearing on the plan before approving it. The bill requires the agency to post a draft of the plan on its website, if it has one, at least 35

days before the hearing.

The bill requires the agency to make more findings before it can approve the plan. The current findings include a determination that the area meets the statutory criteria for designating a redevelopment area and that the plan will materially improve conditions there. Under the bill, the agency must also find that the plan is consistent with the town's plan of C&D.

The bill also requires the agency to make specific findings that the:

1. public benefits resulting from the project outweigh the private ones,
2. existing land uses cannot be feasibly integrated in the project's overall plan,
3. condemnations are reasonably necessary to successfully achieve the plan's objectives, and
4. plan will produce public benefits beyond its effects on local tax revenues.

After the agency's governing board approves the plan, the bill requires it to publish a newspaper notice to that effect. The approval is good for 10 years, after which the agency must review the plan at least once every 10 years. If the agency chooses to readopt or amend the plan, it must follow the procedures for adopting one.

The bill allows all property owners in the redevelopment area to appeal the plan's findings about the project's public benefits to Superior Court. An owner must bring the appeal by service of process no later than 15 days after the agency publishes the notice of the plan's approval. The appeal must be returned to the court in the same manner and within the same time period for civil actions. The burden of proof is on the agency, which must prove that its record contains enough evidence to reasonably support the plan's findings.

If the agency cannot satisfy the burden of proof, the court must order it to wholly or partly revise, modify, or remand the findings based on evidence in the record.

Deadline for Condemning Property Under Plan (§ 3)

The bill imposes deadlines for completing the planned condemnations. The agency has five years from when it approved the plan to do so. It can extend the deadline for an additional five years but cannot condemn property after 10 years.

Condemning Property (§ 4)

The bill drops the requirement that the legislative body must approve the condemnations and specify the deadline by which the agency must complete the condemnation.

The bill creates a separate process the agency must follow when condemning owner-occupied property. The agency must find that it cannot implement the plan without condemning the property. In doing so, it must give the owner all the data it collected in making the finding. It must hold a public hearing on the condemnation, which must be noticed in a newspaper serving the town not more than 10 days before the hearing. It must also mail hearing notices to the owners of the properties slated for condemnation and those who own property within 100 feet of these properties. It must send the notice by first class mail.

The agency may not condemn any property unless at least a two-thirds of its governing board votes to do so. The board can approve each condemnation separately or in groups. In both cases, the condemned properties must be identified when the board votes on the condemnations. The agency must publish a notice of each approved condemnation in a newspaper serving the town within 10 days after the decision.

Owner-Occupants Right to Appeal a Condemnation (§ 4)

The bill allows owner-occupants to appeal the condemnation to Superior Court. Those that do so must start the appeal by service of

process within 15 days after the agency publishes the notice of the condemnation's approval. The appeal must be returned to the court in the manner and time period required for civil actions.

The burden of proof in the appeal falls on the agency, which must prove by clear and convincing evidence that it cannot implement the plan without condemning the property and that this action is consistent with the plan's findings about the project's public benefits. The agency must prove this based on evidence in the record. If the agency fails this test, the court must order the agency to reverse its decision.

Findings of Value (§ 4)

The bill requires the agency to itemize the value of the property and any structures and improvements on it and record this information with the certificate of taking.

By law, the Superior Court clerk files this certificate after the agency files a statement specifying the compensation it offered for taking the property (i.e., statement of compensation). The agency must file the statement with the clerk, record it on the land records, and notify the property's owners. When the agency later files a return of notice with the court, the clerk must file a certificate of taking.

Right of First Refusal (§ 4)

The plan must indicate how the acquired property will be used. If the agency acquires a property under the plan and subsequently decides that it cannot be used as the plan intended or for other public uses, the bill establishes a right of first refusal if the agency plans to offer the property for sale. It does so by providing a way for the town to notify the original owner, his agent, or designated heirs that it wants to sell the property and specifying a deadline by which these parties must notify the town about whether they want to buy it back.

Under the bill, when the agency takes the property, it must give the owner a form to specify his address, the name and address of an agent, and the names and addresses of those heirs designated to purchase the

property. The owner or agent can update the form in writing.

The town must mail the form to the listed parties only if it was properly completed and updated and provides the information needed for mailing. In notifying the parties about the property, the town must offer it for sale at a price that is no greater than the amount in the recorded finding minus (1) the value of any structures or improvements removed from the property, (2) the value of any improvements the agency made to it, and (3) the amount by which the property depreciated.

The town must give the parties six months to notify it if they want to purchase the property and another six months to finalize the sale. It may sell the property to a third party if the parties failed to notify the town within six months after the town sent the notice.

Compensation (§ 5)

The bill specifies how the agency must compensate the owners of condemned property. It requires the compensation to be based on two independent appraisals, the reasonable costs of which must be paid by the agency. The appraisals must be conducted by a state-certified appraiser according to specified industry standards. The appraisers must work independently of each other. The owner and the agency each select an appraiser. Each appraiser must provide a copy of the appraisal to the agency and the owner.

The property rights ombudsman must choose the appraisal that is closest to the property's fair market value, and that appraisal must be used to determine the amount of compensation. The fair market value must be reduced by reasonably foreseeable environmental clean-up costs and increased by reasonable attorney fees and costs.

The level of compensation depends on whether the owner occupies the property. The compensation must equal 125% of the adjusted fair market value for owner-occupied residential and commercial property that complies with all building and housing codes. Otherwise, the compensation must equal 100% of that value. In both cases, the agency

must increase the compensation if it acquires the property more than five years after it adopted the initial plan. It must increase the amount by 5% per year until the 10th year.

Active business owners occupying a condemned property qualify for the loss of goodwill, which reflects the benefits a business derives from its unique location. A business suffers this loss if the property rights ombudsman determines that the business cannot successfully transfer its good will to another location. In these cases, the compensation must equal 100% of the property's fair market value as adjusted for the loss of goodwill. The ombudsman must determine that adjustment. The owner may appeal the adjustment to Superior Court.

The bill does not change the steps the agency must follow when filing the statement of compensation, but increases the time required to complete certain steps. Current law requires the agency to wait 12 days from after it filed the statement of compensation before it can actually take the property. The bill increases the waiting period to 35 days and makes conforming technical changes. The maximum period between filing the statement and taking the property remains 90 days.

Statement of Compensation (§ 6)

By law, a property owner can ask the Superior Court to review the redevelopment agency's statement of compensation. Current law allows the court to appoint a judge trial referee to review the statement. The bill requires the consent of the parties or their attorneys before the court may appoint a judge trial referee (a judge over the retirement age of 70 who continues to serve and is designated to hear cases).

The bill also allows both parties to have the appeal referred to a judge appointed to hear tax appeals. The court must refer the case if each party or their attorneys makes a motion requesting it. By law, the chief court administrator appoints two Superior Court judges to hear tax appeals.

The bill also makes the property owner (i.e., the applicant) the counterclaim plaintiff for application, review, appeal, and offers of compromise.

TAKINGS UNDER MUNICIPAL DEVELOPMENT STATUTES (§§ 7-10)

Project Plan (§§ 7 & 8)

The law allows towns to acquire, improve, and transfer property for developing business and industry (i.e., economic development). A town must first designate a “project area” and prepare a plan to develop it. Its development agency may implement the plan by purchasing property or, with the legislative body’s approval, condemning it.

The bill expands the kind of information and analyses the agency must provide in the plan. It requires the plan to meet an identified public need and describe the process the agency used to prepare the plan and the alternative approaches it considered to achieve the plan’s objectives. It must include a preliminary statement about how the agency will acquire each parcel, including findings that:

1. public benefits resulting from the project outweigh the private ones,
2. existing land uses cannot be feasibly integrated in the project’s overall plan,
3. condemnations are reasonably necessary to successfully achieve the plan’s objectives, and
4. the plan will produce public benefits beyond its effects on local tax revenues.

By law, the plan must describe the number of jobs and housing units the project will create. The bill also requires the plan to describe the other ways it will benefit the public. It must estimate the amount of local tax revenue the project will generate and generally describe:

1. the infrastructure improvements, including public access facilities, or uses;
2. how it will clean up blight or the environment;
3. the aesthetic improvements it will generate; and
4. how the project will increase or sustain land market values, help the town's residents improve their standard of living, and help maintain or enhance the town's competitiveness.

By law, the plan must include a finding that it is consistent with the local and regional land use plans and does not undermine any statewide planning goals and objectives. Under the bill, the plan must include a statement that the agency gave the State Plan of Conservation and Development due consideration when it prepared its development plan.

The bill requires the agency to publish a newspaper notice about the plan's approval. The approval is good for 10 years, after which the agency must review the plan at least once every 10 years. If the agency chooses to readopt or amend the plan, it must follow the procedures for adopting a plan.

Posting Municipal Development Plan on the Internet (§ 8)

The law requires the agency to hold a public hearing on the plan before approving it. The bill requires the agency to post a draft of the plan on its website, if it has one, at least 35 days before the hearing.

Appealing the Plan's Findings (§ 7)

The bill allows property owners in the project area to appeal the plan's findings about the properties the agency plans to acquire to Superior Court. An owner must bring the appeal by service of process no later than 15 days after the agency published the notice of the plan's approval. The appeal must be returned to the court in the same manner and within the same time period for civil actions. The burden of proof is on the agency, which must prove that the evidence in the

record supports the findings being appealed. The evidence must be clear and convincing.

If the agency cannot satisfy the burden of proof, the court must order it to wholly or partly revise, modify, or remand the findings based on evidence in the record.

Deadline for Completing Condemnations (§ 7)

The bill imposes deadlines for completing the planned condemnations. The agency has five years from when it approved the plan to complete the condemnations. The legislative body can extend the deadline for an additional five years, but the agency cannot condemn property after 10 years.

Condemning Owner-Occupied Property (§ 9)

The bill requires the town's legislative body to approve each condemnation involving owner-occupied property. The agency must convince the legislative body that the agency cannot implement the plan without condemning the property. In doing so, it must give the legislative body enough information to determine by clear and convincing evidence that this is the case. The agency must give the affected property owners a copy of the information it gives to the legislative body.

The legislative body must hold a public hearing on the condemnations before it approves them. It must publish a notice of the hearing no more than 10 days before holding it. At least 10 days before the hearing, the agency must mail the notice by first class mail to the owners of the affected properties and those whose properties are within 100 feet of them.

The legislative body must approve the condemnations by a two-thirds vote. It may approve each condemnation separately or in one or more groups. In either case, each property must be identified when the legislative body votes. The agency must publish a newspaper notice of each approved condemnation no more than 10 days after the decision.

Findings of Value (§ 9)

The bill requires the agency to itemize the value of the property and any structures and improvements on it and record this information with the certificate of taking.

By law, the Superior Court clerk files this certificate after the agency files a statement specifying the compensation it offers for taking the property (i.e., statement of compensation). The agency must file the statement with the clerk, record it on the land records, and notify the property's owners. When the agency later files a return of notice with the court, the clerk must file a certificate of taking.

Right of First Refusal (§ 8)

The project plan must indicate how the acquired property will be used. In cases where the agency acquires a property under the plan and subsequently decides that it cannot be used as the plan intended or for other public uses, the bill establishes a right of first refusal. It does so by providing a way for the town to notify the original owner, an agent, or designated heirs that it wants to sell the property and specifying a deadline by which these parties must notify the town about whether they want to buy it back.

Under the bill, when the agency takes the property, it must give the owner a form on which to specify his address, the name and address of an agent, and the names and addresses of those heirs designated to purchase the property. The owner or agent can update the form in writing.

The town must mail the form to the listed parties only if it was properly completed and updated and provides the information the town needs to mail it. In notifying the parties about the property, the town must offer it for sale at a price that is no greater than the amount in the recorded finding minus (1) the value of any structures or improvements removed from the property, (2) the value of any improvements the agency made to it, and (3) the amount by which the property depreciated.

The town must give the parties six months to notify it if they want to purchase the property and another six months to finalize the sale. It may sell the property to a third party if the parties failed to notify the town within six months after the town sent the notice.

The bill allows the owner-occupants to appeal the condemnation to Superior Court. Those that do so must start the appeal by service of process within 15 days after the agency published the notice of the condemnation's approval. The appeal must be returned to the court in the same manner and time period required for civil actions.

The burden of proof in the appeal falls on the agency, which must prove by clear and convincing evidence that it cannot implement the plan without condemning the property and that this action is consistent with the plan's findings about the project's public benefits. The agency must prove this based on evidence in the record. If the agency fails this test, the court must order the agency to reverse its decision.

Offer of Sale when Agency Abandons Plan (§ 10)

The bill makes a conforming technical change to the provision under which the agency may abandon a municipal development plan. By law, the legislative body may abandon the plan three years after adopting it and convey any property the agency could not sell, transfer, or lease for its fair market value or fair rental value. Under current law, it may convey the property free of any restriction, obligation, or procedure the plan imposes but must otherwise conform to all state and local laws, ordinances, and regulations. The bill specifies that the agency must also comply with the bill's offer of sale requirements.

RELOCATION BENEFITS (§§ 11-13)

State and federal laws require municipal and state agencies to pay relocation benefits when they displace people from their homes, farms, and businesses. The benefits under federal law tend to be greater, and agencies must pay these when acquiring or condemning property with

federal funds.

Moving Expenses (§ 11)

The law requires agencies to cover the costs of moving to a new property. These costs include actual reasonable moving expenses; personal property lost during the move; and, for business and farm owners, the cost of finding a new location. The bill requires agencies to pay the higher of the benefits required under the state or federal Uniform Relocation Assistance Acts.

It also requires that moving expenses paid to a displaced business be adjusted, up or down, to reflect any decrease or increase in “good will.” The agency must separately calculate the increase or decrease in good will. Under the bill, good will is the benefits that accrue to a business from its unique location.

Additional Payments to Owner-Occupants (§ 12)

Current law requires agencies to pay up to \$15,000 to anyone displaced from a home he owned and occupied for at least 180 days before the agency began negotiating its purchase. The bill requires agencies to pay the higher of the benefits required under the state or federal Uniform Relocation Assistance Acts.

Additional Payments to Tenants (§ 13)

Current law requires agencies to pay benefits to tenants who occupied their units at least 90 days before the agency began negotiating their purchase. They must provide up to \$4,000 in benefits for finding a new rental or putting a down payment on a home. The bill requires agencies to pay the higher of the benefits required under the state or federal Uniform Relocation Assistance Acts.

TAKINGS UNDER MANUFACTURING ASSISTANCE ACT (§ 14)

Planning Requirements

The bill imposes mostly the same requirements on plans prepared under Chapter 588l, which also allows towns to acquire and develop property for economic development. It requires such a plan to meet an

identified public need and describe the process the agency used to prepare it and the alternative approaches it considered to achieve the plan's objectives.

The bill requires that the plan include a preliminary statement about how the agency will acquire the each parcel. The statement must include findings that:

1. the project's public benefits will outweigh any private benefits;
2. existing use of the property cannot be feasibly integrated into the overall plan for the project;
3. acquisition by eminent domain is reasonably necessary to successfully achieve the plan's objectives; and
4. the project will have public benefits that do not include consideration of the project's effect on local tax revenues.

By law, the plan must describe the project's economic benefits, including the number of jobs and housing units to be created, and its estimated property tax benefits. The bill instead calls this a description of public benefit and additionally requires a general description of:

1. the infrastructure improvements, including public access, facilities, or use;
2. how it will clean up blight or the environment;
3. the aesthetic improvements it would generate;
4. how the project will help increase or sustain land market values, help the town's residents improve their standard of living, and maintain or enhance the town's competitiveness.

Under current law, the project plan cannot be inimical to any statewide plans. The bill instead requires the project plan to be prepared with due consideration of the State Plan of Conservation and Development and other statewide plans. As under current law, the bill

waives this requirement if the project involves no state funds.

The bill requires the implementing agency to post the draft plan on its website (if it has one) at least 35 days before holding the required hearing on the plan.

It requires that the agency publish a notice of the plan's approval by the legislative body and the Department of Economic and Community Development commissioner in a newspaper serving the municipality. The plan is effective for five years after the date of adoption. Thereafter, the agency must review it at least once every five years and may adopt it again or amend it in accordance with the bill.

Under the bill, any property identified in the plan as property to be acquired by eminent domain must be acquired within five years after the legislative body and the commissioner approved the initial plan, unless the municipality's legislative body approves an extension. An extension must be for a period of five years. No property may be acquired more than 10 years after adoption of the initial plan.

Right of Appeal- Planning Stage

Any owner of property located in the project area may appeal the agency's preliminary findings to the Superior Court. The appeal must be started by service of process within 15 days from the date that notice of the plan's approval was published. In this appeal, the agency has the burden of proving, by clear and convincing evidence and based upon the evidence in the record compiled by the agency, that the findings in the plan and the reasons cited for them are supported by sufficient evidence in the record. If the implementing agency does not satisfy this burden of proof, the court must order it to wholly or partly revise, modify, or remand the findings from which the appeal was taken in a manner consistent with the evidence in the record.

Legislative Body Approval

By law, after adopting the plan, the implementing agency must submit it to the municipality's legislative body for approval.

Under the bill, before the legislative body approves any acquisition by condemnation, it must hold a public hearing. No more than 10 days before the hearing date the municipality must publish a notice of the time, place, and subject of the hearing in a newspaper serving the municipality. At least 10 days before the hearing, the legislative body must send, by first class mail, this information to the owners of record of the real property and to all owners of real property within 100 feet of the real property to be acquired by condemnation

The bill bars the legislative body from approving the agency's use of condemnation unless it has:

1. considered the benefits to the public and any private entity that will result from the municipal development project and determined that the public benefits outweigh any private benefits,
2. determined that the current use of the property cannot be feasibly integrated into the overall development plan, and
3. determined acquiring the property by condemnation is reasonably necessary to successfully achieve the objectives of the development plan.

In addition, no owner-occupied property may be acquired by eminent domain unless the agency submits information to the legislative body sufficient for it to determine by clear and convincing evidence that the redevelopment plan cannot be implemented without using eminent domain. This information must include surveys, engineering studies, architectural drawing, and planning reports. The implementing agency must give the property owner a copy of all of the information submitted to the legislative body.

The bill requires a two-thirds vote of the legislative body to acquire any parcel by condemnation. The approval can be by (1) a separate vote on each parcel of real property to be acquired or (2) a vote on one or more groups of such parcels, provided each parcel is identified for

the purposes of a vote on a group of parcels. The municipality must publish notice of any approved acquisition in a newspaper having a substantial circulation in the municipality within 10 days after such approval.

The implementing agency may then condemn, in the name of the municipality, any property necessary or appropriate for the project as identified in the development plan, following the procedures that apply to redevelopment agencies. The property can include any real property and interests in land for rights-of-way and other easements to and from the project area.

The bill imposes deadlines for completing the planned condemnations. The agency has five years from when the plan was approved to complete the condemnations. The legislative body can extend the deadline for an additional five years, but the agency cannot condemn property after 10 years.

For takings on and after the bill's passage date, when a certificate of taking is filed for property acquired by eminent domain, the agency must record with it separate findings that itemize the value of the real property and any structures or improvements on it.

Appeal of Actual Taking

The bill allows the owner-occupant of property acquired by eminent domain to appeal the agency's decision to the Superior Court. The appeal must be commenced by service of process within 15 days from the date that the agency's published its notice of the approved acquisition under the laws governing redevelopment agencies. In this appeal, the agency has the burden of proving, by clear and convincing evidence based upon the record it compiled, that acquisition of the property is consistent with the preliminary findings statement. If the agency does not satisfy the burden of proof, the court must order it to reverse its decision.

Right of First Refusal

If property acquired on or after the bill's passage date is not used for

the purpose for which it was acquired or for some other public use and is subsequently offered for sale, the property must be first offered for sale to the person from whom the real property was acquired, or his heirs or agent. The municipality must provide a form to anyone whose property is acquired to permit him to provide an address to send notice of sale, or to provide the name and address of an agent to receive such notice. The form must be designed to permit the person to designate heirs who are eligible to purchase the property. The person or agent must update information in the form in writing. If the person or agent does not provide or update the information in the form in a manner that permits the municipality to send notice of sale, notice is not required.

The municipality must offer the property for a price up to the amount of compensation paid for it, after any appeal or settlement, less (1) the value as set forth in the agency's findings, of any structures or improvements removed from the real property by the agency or its designee after the property was acquired; (2) the value of any improvements the agency made to the property; and (3) the amount of any depreciation. After the municipality provides notice to the owner, agent, or heirs, it may not sell the property to a third party unless it has permitted the person or heirs six months to exercise their right to purchase the property, and an additional six months to finalize the purchase if the person or heir provided the municipality with notice of intent to purchase the property within the initial six-month period.

PROPERTY RIGHTS OMBUDSMAN (§ 15)

The bill expands the duties of the Office of the Property Rights Ombudsman to include selecting which appraisal will be used to determine and quantify the amount of compensation to property owners for property acquired by eminent domain under the redevelopment statutes.

OFFER OF COMPROMISE (§ 16)

The bill makes a property owner who applies to the Superior Court for review of a statement of compensation under the redevelopment

statutes the counterclaim plaintiff for purposes of offers of compromise, which is a statutory procedure to offer to settle the case for a specified amount.

Under the offer of compromise law, a plaintiff can file an offer with the court after 180 days have passed since service of process on the defendant and up to 30 days before trial. A defendant has 30 days to file an acceptance of the offer with the court clerk. If the defendant accepts, the plaintiff, after receiving the amount specified in the offer, files a withdrawal of the lawsuit, which the clerk records.

Under the current law which applies to contract and money damage cases, if the defendant does not accept the offer and, after a trial, the plaintiff recovers an amount equal to or greater than the sum stated in the offer, the court adds 8% annual interest on the amount recovered. For eminent domain cases under the redevelopment procedures, the bill requires the court to add 8% interest on the amount specified in the plaintiff's offer.

Because other statutes authorizing the use of eminent domain require using the redevelopment procedures, these changes also apply to those takings.

REPRESENTATIONS ABOUT EMINENT DOMAIN POWER (§ 17)

The bill makes it an unfair trade practice for a person negotiating to acquire rental or real property to represent in the negotiation that he has the power to acquire the property by eminent domain when he does not. The bill specifies that this does not apply to a town's chief executive official.

CONDEMNING BILLBOARDS (§ 18)

By law, the Department of Transportation (DOT) commissioner can take land and other property in connection with highway projects. The title to the property vests in the state immediately once DOT notifies the property owner of the proposed compensation, files this offer with the court, and files the certificate of taking on the land records. All acquisitions costing more than \$5,000 require State

Property Review Board approval.

Under the bill, whenever the DOT commissioner proposes to take an outdoor advertising structure, he must notify the board, which must acquire the structure on his behalf. The bill thus appears to grant eminent domain powers. The board must follow same procedures as DOT.

Under the bill, the board must determine the amount of compensation to the owners of the structure. If the structure can be relocated, compensation must be based on its replacement costs. If it cannot be located, compensation must include an amount equal to its business value. Generally speaking, business value is the price at which a willing seller would sell a specific business interest and a willing buyer would pay when neither is compelled to sell or buy and both have reasonable knowledge of relevant circumstances.

BACKGROUND

Connecticut Unfair Trade Practices Act (CUTPA)

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/23/2007)